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MEMORIES
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A COLLECTION OF
INTERESTING INCIDENTS, ANECDOTES AND HISTORICAL SKETCHES
RELATING TO WESTMINSTER HALL, ITS FAMOUS JUDGES
AND LAWYERS, AND ITS GREAT TRIALS.

WITH AN
HISTORICAL INTRODUCTION

BY
EDWARD FOSS, F. R. S.
AUTHOR OF "THE LIVES OF THE JUDGES OF ENGLAND," ETC.

VOL. II.

NEW YORK
GEO. W. SMITH & CO.

LAW PUBLISHERS, 95 NASSAU STREET

1874



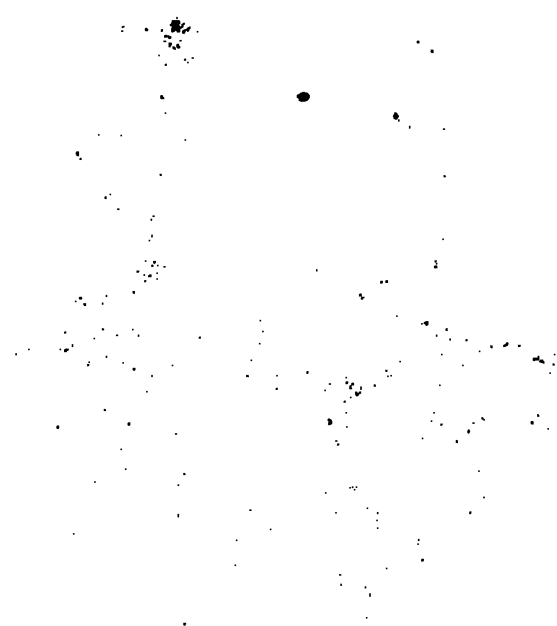
LIST OF ILLUSTRATIONS.

VIEW OF THE COURT DURING TICHBORNE TRIAL, . . . *Frontispiece.*

	PAGE
THE TICHBORNE CLAIMANT, ...	1
HUT IN WHICH THE CLAIMANT LIVED AT WAGGA WAGGA, . . .	44
LETTER FROM ARTHUR ORTON TO HIS SISTER, IN 1866, . . .	46
THE SHOP OF CASTRO, THE BUTCHER, AT WAGGA WAGGA. . .	49
THE CLAIMANT TO LADY TICHBORNE, IN 1866, ...	50
ROGER TICHBORNE TO HIS SOLICITOR, IN 1851.	52
ARTHUR ORTON TO MISS LOADER, IN 1852, ...	54
HON. SIR J. MELLOP, KNT., ...	85
HON. SIR R. LUSH, KNT., ...	87
HENRY HAWKINS, ESQ., Q. C., ...	89
DR. E. V. KENEALY, Q. C., ...	93
THE LORD CHIEF JUSTICE SUMMING UP, ...	97
CLOSE OF A TEDIOUS TRIAL, ...	102



THE TICHBORNE CLAIMANT.



MEMORIES
OF
WESTMINSTER HALL.

CHAPTER XII.

THE GREAT TICHBORNE CASE.

IN the early years of the reign of His Majesty King Louis Philippe there resided in the Rue de la Ferme, Paris, an English gentleman and his family named Tichborne. Paris has undergone a wondrous transformation since then, but the Rue de la Ferme, or more correctly the Rue de la Ferme des Mathurins, is still represented by fragments of its former self which may be found by the curious in the Quarter of the Madeleine. Servants and tradespeople knew this gentleman as "Monsieur Teeshborne." He had a French wife, a French valet and footman, a French circle of friends and acquaintances. He spoke French like one of themselves. He was a Roman Catholic—his wife a devout one. Father confessors and other dignified clerical persons were often found within his modest suite of rooms above the *entresol*, where, in Continental fashion, he lived snugly, and was only to be approached by a preliminary parley with the *conciërge* in his little lodge across the paved courtyard. If this gentleman was not exactly naturalized it was clear that his family were in a fair way to become part and parcel of the great French nation. Perhaps a son might keep up associations with his father's native country; but in the natural course of

things the association must grow weaker and weaker, until at last the fact that the Tichbornes were known to be of English origin would possibly have been all that distinguished them from friends and connections in their adopted land.

Yet Mr. James Tichborne was a member of the ancient family of Tichborne, of that place whose name, either in its modern or its ancient form of De Itchenborne, was famous in Hampshire long before the days when Gurth, the swineherd, blew his horn in the glades of the New Forest. But he was a younger brother. More than that, he was a younger brother without any reasonable prospect of ever succeeding to the baronetcy and estates of the Tichborne family. Younger brothers take various ways. Some go into the Army, some into the Navy, the Church, the Law. Some determine to carve a position for themselves, and dream of founding a family to be known as the younger branch. Mr. Tichborne, however, was not one of these. He had a private fortune quite sufficient for his wants, and even for a considerable amount of luxury. He had married a lady about whom there was a certain degree of mystery. That she had an English father—Mr. Seymour, of the old family of that name at Knoyle, in Wiltshire, was known to some, though it was better known that the mother of Mrs. Tichborne was a French lady of the ancient house of Bourbon Conti, a family that had suffered like others from the great social deluge of 1789, but had retained some power over possessions a considerable portion of which, after long years of litigation, came to the wife of "Mons. Teeshborne." With these sources of income Mr. Tichborne led an easy and somewhat idle, though unfortunately by no means a peaceful, life. He was, on the whole, a good-natured man, a kind husband, and a good father; but he had a hasty temper, of which servants

and even relations felt at times some of the effects. But his wife's infirmity in this way was far more notorious. Mrs. Tichborne was what is known as a spoiled beauty. Slim, graceful, elegant, and at that period, scarcely more than of middle age, her good looks would have made her in the old days of gallantry a famous toast. As it was, her personal attractions were proverbial, and, as is not uncommon in such cases, her self-will was equally well known. Among other traits in her character was a singular perverseness, coupled with a weakness of judgment which rendered her an easy prey of that numerous class who hang about the devout soliciting charity. Hence the household was by no means a happy one. Mrs. Tichborne devoted much time to the exercise of her religion; and she had—a few years later at least—in pretty constant attendance her confessor, the Abbé Salis, of whom the world has heard something. To do him justice the Abbé was cognizant of the infirmities of her disposition, and gave her good advice, which, however, was not often followed. Unhappily the domestic differences of Mr. and Mrs. Tichborne were not always concealed from servants or friends. Mr. Tichborne's "faithful Gossain," the valet, who had been with him from the earliest period of his married life, knew much of these domestic sorrows; and the *habitués* of that circle—the old friends who were at home at their table—saw more than once unpleasant tokens of these matrimonial storms which were rather the rule than the exception in that household. Still Mr. Tichborne loved his wife, and while lamenting his miseries most bitterly rarely failed to mingle with his complaints some expression indicating affection. Unfortunately Mrs. Tichborne's weaknesses increased with years, and developed into an eccentricity which, if it was not madness, seemed to many only to be explained by reference to that cause.

Mr. and Mrs. Tichborne had married in the year 1827, and on the 5th of January, 1829, a son was born to them, whom they baptized at the Madeleine Church in the name of Roger Charles. Ten years later they had another son, who was known as Alfred Joseph. Two little girls were also born to them, but these died young, so that the Tichborne family consisted only of father, mother, and the two sons. Of these the elder one, little Roger, concerns us most. There came a time when it was necessary to provide instructors for the lad, and Mrs. Tichborne, resolute in the determination to have her own way in all things, charged herself with the matter of his education. A tutor was engaged for him named Chatillon, whose duty it was not only to teach, but to take the little boy out to play in the public gardens of which there are in Paris so many. Afterwards there was a spiritual instructor for the boy in the person of Father Alexis Lefèvre, a priest who has since become renowned as a preacher, and from his miraculous escape from execution by the Communists in the civil strife which followed on the conclusion of the great war with Germany. The boy loved Father Lefèvre, and on the *fete* day of his patron saint Alexis was accustomed to make a special visit to the worthy father, taking with him an offering of flowers. As intelligence grew he confided to him his childish sorrows, and the priest gave him consolation. One day little Roger said to him, "Father, why is your hair all white?" Then the father told him how once when he was in Spain, and when he was still a young man, he dreamed a terrible dream of his father's death, and how the shock brought on an illness, and how from that time his hair began to change, and in the end grew prematurely gray. At other times he amused the boy with legends of the saints, telling him of a certain man in the old times who went away from father and mother,

and for some strange reason returned in the garb of a beggar, and lived in his father's great house a poor dependant, until he died, and the secret was revealed. Of instructors in the lore of the Roman Catholic Church Roger had indeed no lack. There was his mother's confessor, who for some time lived in the same house, and would occasionally interrogate the boy upon his studies. But if Roger grew to be a sound Catholic it is certain that he did not become a good scholar. It has been pleaded for Chatillon that he was impeded in the duty of teaching the boy by Mrs. Tichborne's inveterate habit of interference. Any way the scholar made but little progress in his studies. At one time Mr. Tichborne insisted on his son going to a public school, and accordingly he was placed in the suburb of Vaugirard at an establishment kept by the Abbé Dupanloup, who has since risen high, and is now better known as the Bishop of Orleans. But he had been there only a week when the restless, self-willed, and flighty Mrs. Tichborne interfered—insisted that her son should not observe the ordinary hours and regulations, but should be governed by a code of her own framing. Abbé Dupanloup politely refused to accede. A large school, he said, must be governed by its own laws, and the Abbé saw no reason for making exceptions in favor of the son of Monsieur Tecshborne. So poor Roger was peremptorily withdrawn, and consigned to the care of a tutor, who was more easily controlled.

All this while Mr. James Tichborne interfered little, or if he interfered was not very successful. He passed time at his club, where he was regarded as a good conversationalist. He took interest in politics and public affairs, and sought what consolation he could in the society of his old friend M. d'Aranza, the Comte de Mondreville, and others. His visits to England were rare, but once a

year it was his custom to make a trip to the South of France, or to the Channel Islands, or across the Alps into Italy. Sometimes Mrs. Tichborne accompanied him; on one memorable occasion little Roger and his tutor were of the party, and this time they went into Brittany. But even here poor Roger's ill-fortune pursued him, for one day when they were bathing in a little bay at Fornic he fell from a rock upon his head, and received so severe a blow that for some hours he remained insensible. These, however, were but slight troubles compared with the miseries he endured from the mother's strange fancies at home. He was growing old enough to understand the position of matters in his household, and was witness of many a scene of discord between mother and father which a child should not see. Thus he came to have more and more matters to confide to his friend the reverend father; and then there was the little grievance of how the mother fed him on the Frenchwoman's everlasting diet of thin soup, and other domestic troubles. But not the least of poor Roger's sorrows arose from the mother's faith in old nostrum's, and in her persistence in regarding the child as an object for the practice of what is known as "domestic medicine." Many a year after that the lad resented inquiries after his health from the over-anxious mother, as if he had been threatened again with the old torments, one of which was the horrible infliction of an issue in the arm, maintained in French fashion by inserting a pea in an incision made for the purpose, and keeping it there until the irritation which it caused produced a painful sore. For three years the poor boy suffered from this foolish old remedy for his imaginary ailments, complaining and fretting. But in the Tichborne household, save an occasional insurrection on the part of Mr. James, the mother ruled supreme. When the boy's slow progress in learning was the sub-

ject of remonstrance, new tutors were engaged one after another, but the result was the same. Now and then the restless lady in like manner engaged new lodgings, and Roger's home was shifted from one street to another, though always near the same quarter. But amid all these changes there was no variation in Mrs. Tichborne's habit of controlling the teachers of her son; and thus it came about that at the age of sixteen Roger Tichborne, though he spoke French with the ease and command of language of a young gentleman reared in Paris, in the society of refined and educated persons, wrote that language with an ignorance of correct spelling that would have disgraced the son of a porter.

Some years before this time, however, events had occurred in England which aroused Mr. James Tichborne more than ever to the necessity for giving his eldest son some different training. The then Lord of Tichborne, his brother, was growing in years, and was not likely to have an heir. Indeed it was the common belief of the county folks that the Tichborne family must ere long become extinct, the foundation of this notion being attached to the old legend of the distribution of the "Tichborne Dole," the story of which was as follows: In the reign of Henry I. Sir Roger de Tichborne married Mabella, the sole heiress of the powerful house of Lamerston, in the Isle of Wight. This lady was famed for her piety and charity, and it was commonly believed among the superstitious peasantry of those days that she had the power even of working miracles. When worn out with age and infirmities she petitioned her husband for the means of instituting a distribution—or "dole," as it was then called—of bread, to be given to every person who should come to the old house and ask for it on every Lady Day forever. To this request her husband not only acceded, but promised

her for the purpose as much land as she could walk round in the neighborhood of the house while a billet of wood, which was to be lighted, should continue to burn. It would seem to have been a somewhat unkind condition to require a wife weighed down with age to perform pedestrian exercises of this kind ; and the concession is unfortunately open to the suspicion of being dictated by the belief that the result would not deprive the Lord of Tichborne of any very large portion of his ancestral estates. If so, however, he underrated the strength with which faith and charity will sometimes endow the weak. Old Lady Tichborne was not to be daunted by the trifling difficulty that she happened to be bed-ridden. She caused herself at once to be lifted from her couch and carried to a choice and fertile meadow of several acres in extent. The fire having then been applied to the faggot, she commenced alternately walking by the aid of props and crawling upon her hands, and, finding herself suddenly blessed with unusual power, she succeeded in completing the entire circuit of the meadow before the last little tongue of blue flame hovering on the wreaths of smoke had finally dropped out, and the faggot was reduced to ashes. The spot where this semi-miraculous event took place is still pointed out, lying to the north-east of the house, and it has ever since been known by the name of "The Crawls." Lady Tichborne was said to have threatened the downfall of the house and the extinction of the name of Tichborne if any of her successors should be wicked enough to abolish the annual work of charity. Such, indeed, was the tenor of the old legend of the Tichborne Dole, which was annually distributed in 1,200 small loaves, in the fashion which will be seen in our engraving from Tilberg's picture. But towards the close of the last century it began to be felt that our forefathers were not always as wise as they

were benevolent—that, in fact, the Tichborne Dole did but little good for the honest and deserving, while it attracted in great numbers the idle and dissolute. The “Dole Day,” in fact, was attended with scenes of confusion and disorder, and was, therefore, at last abolished. When, shortly after that, the venerable house with its two wings, as depicted in Tilberg’s painting, its secret passages and quaint staircases, was pulled down to make way for the present modern mansion, the conviction that the ancient glories of Tichborne were shaken became confirmed; nor did it matter much in popular estimation that the whole annual cost of the “Dole” continued to be bestowed upon the poor in a wiser form. Before long the people’s old prophecy must have its fulfillment, and Tichborne would be without an heir. Singularly enough, this notion soon began to receive a striking confirmation. Sir Henry Joseph Tichborne, who succeeded to the baronetcy in 1821, was popular in the county. His hale and robust form, his light hair and clear blue eyes, his frankness and good humor, his jovial frame and bearing, suggested to visitors of the Tichborne family recollections of Cedric in the romance of “Ivanhoe,” and constituted him the very ideal head of a race unquestionably of Saxon descent. But for all this, people said that the curse of Lady Mabella was upon him and his house. Witness the fact that, though time after time a child was born to him, Providence blessed him with no male heir. Again and again the news came that a child was born at Tichborne, but country folks shook their heads, and foretold that it was “a girl.” And they were right. Sir Henry had seven children, of whom six lived, and were celebrated for their good looks and their tall and handsome proportions; but all the seven were daughters. Still there was Sir Henry’s brother, Edward Tichborne, who had taken large estates under the will of

a Miss Doughty, and with them had assumed the name of that lady, and he was after Sir Henry the next heir.

Edward had a son and daughter. But one day there came the news that another step had been reached towards the fulfillment of the dismal old prophecy. Sir Edward's little boy had died, and then it was that Mr. Tichborne perceived more clearly the error that he had made in permitting Roger to grow up ignorant of English habits and totally unacquainted with the English tongue. Edward Doughty was an old man. His brother, James Tichborne himself was growing in years. The prospect of Roger one day becoming the head of the old House of Tichborne, which had once been so remote, had now become almost a certainty. It would not do for the Lord of Tichborne to be a Frenchman; sooner or later he must learn English, and receive an education fitting him to take the position which now appeared in store for him. All this was clear enough to Mr. James, but not so clear to his weak-headed wife. The father did, indeed, obtain her consent to take the boy over to England, and let him see his uncle and aunt, the Doughtys, at Upton, in Dorsetshire, and his uncle, Sir Henry, at the ancestral home down in Hampshire. But Roger was then but a child, and as he grew older Mrs. Tichborne became more than ever resolute in her determination that, come what might, her darling should be a Frenchman. What cared she for the old Hampshire traditions? France was to her the only land worth living in; a Frenchman's life was the only life worthy of the name. Her dear Roger might succeed to the title and estates, but she could not bear the thought of his going to England. It was, in her imagination, a land of cold, bleak rains and unwholesome fogs. But it was worse; it was the country of a people who had been false to their ancient faith. Even the Tichbornes, though still Catho-

lics, had not always been true to their religion. Why should her Roger go to live in that wilderness of infidelity, when there was France, and above all Paris, open to him, and friends and connections formed there from childhood always ready to welcome him? For herself at least, France must be her home, and the idea of parting with her Roger was hateful. The result of all this was that Mrs. Tichborne had planned out for the future heir of Tichborne a life of perpetual absenteeism. He should marry into some distinguished family in France; or if Italy should furnish him a bride, nothing short of a Princess should share his fortune. If he went into the army it should be in some foreign service. But in no case should he go to Tichborne, or set foot in England again, if she could help it.

It has been remarked that Mr. James Tichborne was like many other weak men who have a self-willed wife. He put off the inevitable day when on some point of duty it is necessary to decide upon a course, and take it. Finally, he achieved his purpose by a *ruse*. Roger was in his seventeenth year when the news arrived that Sir Henry had died. It was right that Mr. James Tichborne should be present at his brother's funeral, and reasonable that he should take with him his eldest son, Roger. Accordingly, Roger took leave of his mother under solemn injunctions to return quickly. But Mr. Tichborne had no intention of allowing his son to return. The boy attended the funeral of his uncle at the old chapel at Tichborne, went to his grandfather's place at Knoyle, and thence, by the advice of relations and friends, and with the consent of the boy himself, he was taken down to the famous Roman Catholic College at Stonyhurst, and there placed in the seminary with the class of students known as "philosophers." When Mrs. Tichborne learned that this step had been completed her

fury knew no bounds. Roger wrote her kind and filial letters in French—ill-spelt it is true, but admirably worded, and testifying an amount of good sense, which promised well for his manhood. But Mrs. Tichborne gave no reply, and for twelve months the son, though longing ardently for a letter, got no token of affection from the resentful mother. Yet Mrs. Tichborne was not the person to see her son removed from her control without an effort. She upbraided her husband violently, and there was a renewal of the old scenes in the Tichborne household; but Roger was now far away, and the danger of Mr. Tichborne's yielding in a momentary fit of weakness was at an end. Meanwhile the mother wrote violent letters to the heads of the college, exposing family troubles in a way which called forth a sorrowful but wise remonstrance from the lad himself. Roger was now growing to manhood, but so little was this fact regarded by the mother who had kept him in tutelage so long that she planned a scheme in concert with one Jolivalt, who had been a tutor of Roger, for kidnapping the youth, and bearing him out of the Pagan territory of Lancashire into the Christian land of France. The conspirators actually started on their expedition, but got no further than Boulogne. The result, however, would certainly not have been more satisfactory to them even if they had got to Stonyhurst. The truth was that from the moment when he escaped from the harassing and incessant control of the mother the boy had become a man. He had already a fund of sound common sense, he was fully alive to the necessity of study, more than that he had a judgment and a will of his own, as henceforth all who came in contact with Roger Tichborne quickly discovered. What was the precise nature of his studies at Stonyhurst, and what progress he made in them, are questions that have been much debated, but it is certain

that he applied himself resolutely to the study of English, and made such progress that, although he could never speak it with so much purity and command of words as when conversing in his mother tongue, he learnt to write it with only occasional errors in spelling and construction. In Latin he made some progress, and in mathematics still more. He attended voluntarily classes on chemistry, and his letters evidence an inclination for the study both of science and polite literature.

The three years which Roger Tichborne spent at Stonyhurst were probably the happiest of his life. He had many school friends, and what was more, in his vacations he made the acquaintance and gradually won the affection of a very large circle of relatives. There was his grandfather, Seymour, who, though for family reasons he was never called by that title, soon became accustomed to see the youth from Paris at the picturesque house down at Knoyle, and the sons and daughters of Mr. Seymour became to Roger something more than cousins. The six surviving daughters of Sir Henry had all married, and were settled in various parts of England, and at their houses the lad who had no home of his own found a kind reception. But there was one house above all others to which Roger Tichborne was happy to go, and it is some evidence of the amiable character of the youth that after a short time there was no place to which he went with a more certain anticipation of a joyful welcome. This was the house at Tichborne, then in possession of his father's brother, Sir Edward Doughty. There was a certain amount of delicacy in his position towards his uncle and his aunt, Lady Doughty, which cannot but be intelligible to any one who has the least knowledge of human failings. It is not in the nature of things that either Lady Doughty or her husband could have been greatly predisposed towards the youthful

stranger, and Roger was shy and reserved and over-sensitive. He had the misfortune to stand in the place which they must once have ardently hoped that their dead child would have lived to inherit. Sir Edward, too, was in failing health, and his brother James was an old man. The time, therefore, could not be distant when this youth, with his foreign habits and his strong French accent, would take possession of Tichborne Park with all the ancient lands. More than that, he would come into absolute possession of the new Doughty property, including the beautiful residence of Upton, near Poole in Dorsetshire, for which the Doughty family had so strong an affection. It was through Sir Edward alone that this property had been acquired, but the lady who had bequeathed it to him had no notion of founding a second family ; in time all the lands and houses in various counties bequeathed by her, as well as those which were purchased by trustees under her will, were to go to swell the Tichborne estates, and to increase the grandeur and renown of the old Catholic family. Upton was indeed the favorite home of the Doughtys. Sir Edward, who had been in the West Indies, had returned thence with his black servant, named Andrew Bogle, then a boy, and had married and settled, doubtless for a long time looking on Upton as their home for life. It cost them a pang to remove even to the house at Tichborne. It was at Upton that their only surviving child, Miss Kate Doughty, had spent all her early years, and to return there and enjoy the fresh sea breezes in the summer holidays was always a delight. It was hard to think that even Upton must pass from them, and that the day was probably not far distant when there would be nothing left for them but to yield up their home and estates to the new comer, and retire even upon a widow's handsome jointure and the fortune of Miss Kate. But if such feelings ever passed

through the minds of the family at Tichborne they could have been only transient. The shy, pale-faced boy with the long, dark locks came always to Tichborne in his holidays, making his way steadily in the favor of that household, and this not from interested motives on the part of Lady Doughty, as has been falsely alleged, and triumphantly disproved, but clearly from something in the nature of the youth which disarmed ill-feeling. It is curious to observe in the letters which Roger Tichborne was so fond of writing to his friends the evidences of how soon the English instincts that had been so carefully suppressed by his French mother began to assert themselves. He took delight in country life, and though he did not bring down the partridges in the woods or throw the fly upon the surface of the Itchen with a degree of skill that would command much respect in the county of Hants, he did his best, and really liked the out-door life. In hunting he took a genuine delight from the time when he donned his first scarlet coat, with the regulation buttons of the Hampshire Hunt, and he rarely, when at his uncle's, missed an opportunity of appearing at "the meet" in that neighborhood. Country gentlemen saw and approved, and the offense of an heir to Tichborne being half a Frenchman was probably soon condoned in the face of such genuine proof of sympathy with an English country gentleman's pastime.

The time had now come when Roger should think of a profession, and Mr. James Tichborne again gave mortal offense to his wife by determining that the young man should go into the army. Mrs. Tichborne was shocked and amazed that the English army should be chosen, when Roger could easily have gone into a foreign service, and storms were again brewing in Paris; but poor Mr. Tichborne made up his mind to bear the brunt of her displeasure at his pursuing a course so natural as that

of choosing an English life for his son and heir. Among the cousins of Roger—daughters of Sir Henry—was one who had married Colonel William Greenwood, of the Grenadier Guards. Their house at Brookwood was but half an hour's ride from Tichborne, and Roger was fond of visiting there. Colonel William's brother George was also in the army, and Colonel George took kindly to Roger, was fond of the youth, and determined to do his best to get him on. So he took him one morning to the Horse Guards, and introduced him to Lord Fitzroy Somerset, the Commander-in-Chief, afterwards better known as Lord Raglan, who promised him a commission. There was a little delay in keeping this promise, but the young man did not go troubling uncles again, but took the self-reliant course of writing direct to the Horse Guards, to remind the Commander-in-Chief of what he had said; and before long Mr. Roger Charles Tichborne was gazetted a cornet in the 6th Dragoons, better known as the Carabineers. Roger had been studying hard both at Tichborne and at Mr. Seymour's house in Grosvenor Square at military matters. He passed his examination at Sandhurst satisfactorily, and went straight over to Dublin to join his regiment. From Dublin he went to the south of Ireland, and twice he came over to England on short visits. He went through the painful ordeal of practical joking which awaited every young officer in those days, and came out of it, not without annoyance and an occasional display of resentment, yet, on the whole, in a way which conciliated his brother officers, and no man was more liked in the regiment than Roger Tichborne, affectionately nicknamed among them "Teesh." In 1852 the Carabineers came over and were quartered at Canterbury. They expected then to be sent to India, but the order was countermanded, and Roger with chagrin saw himself doomed apparently

to a life of inaction. With chagrin, for he was now weary of life in England, for a reason that was well known at the old home in Hampshire, but which was as yet a secret even from Mr. James and Mrs. Tichborne.

There is a letter of Roger Tichborne among the mass of correspondence which he kept up at this, and indeed at every other period of his grown-up life, in which he notices the fact that his mother still dwelt upon her old idea of providing him with a wife in the shape of one of those Italian princesses of which he had heard so much. The lady who had sprung from the great House of Bourbon Conti would have nothing less in rank for her son, and Italian princesses were, to her mind, not difficult to find, "though," said Roger, in the letter referred to, "I would not give a sixpence for a whole wagon-load of them." In fact, Roger's heart had already no place unoccupied.

In all his visits to Tichborne, though on one occasion he had stayed there many months, Roger had for many years never met his cousin, Miss Kate Doughty, the only child of his aunt and uncle. He had seen her long before, when he came over as a child from Paris on a visit, but Miss Doughty was too young at that time to have retained much impression of the little dark-haired French boy, who could hardly have said "Good morning, cousin," in her native tongue. Some dim recollection that they rode on ponies together in the grounds at Upton, attended by a servant, may have remained; but since then Roger Tichborne had grown to manhood, and his cousin herself was coming to the close of her school-days. It was at this critical period, Roger being then twenty years of age, that they met for a few days at Bath, where both had come on the melancholy duty of taking leave of Mr. Seymour, then lying dangerously ill and near his death. Then they parted again; Roger

went to Tichborne for a long stay, but Miss Doughty returned to school at the convent at Taunton. In the Midsummer holidays, however, they once more met at the house in Hampshire, and for six weeks the young cousins saw each other daily. Then Miss Doughty went away to Scotland with her parents; but the "cousin from Paris" was assiduous, and took upon himself the pleasant duty of going to see the party take their departure from St. Katherine's Wharf. The cool, bright days of October found the party again assembled in the walks and gardens of Tichborne Park. But the sterner business of life was approaching. Roger took farewell of uncle, aunt, and cousin, that month, to go to Ireland and join his regiment, and Miss Doughty, whose school-days were not yet ended, went down to a convent at Newhall, in Essex, there to continue her studies. When Roger got a short leave of absence, his first thought was to visit his uncle and aunt, who had so affectionate a regard for him. There was a summer visit to Upton, in Dorsetshire, for a week, when Miss Doughty happened to be there; and there was a visit to Tichborne in January, 1850, when there were great festivities, for Roger attained his majority on the fifth of that month; and there were family balls and servants' balls, and trees planted in honor of the occasion. But again the cousins took farewell, and, as cruel Fate ordained, met no more for a year and a half.

It was no wonder that Roger loved Tichborne, with all its associations. In that well-ordered and affectionate household he found a tranquillity and happiness to which he had been a stranger in his own home. In his correspondence with his father and mother at this time there were no lack of tokens of a loving son; but no one was more sensible than Roger of the miseries of that life which he had led up to the ever-blessed day when



he came away to pursue his studies at the Jesuit College, and to learn to be an Englishman. He felt deeply for his father, and the sorrows which domestic differences caused him, and for a long time there were no happier days for the young officer of Dragoons than those which he spent with Mr. James Tichborne when he came over on brief visits. But Tichborne had come to be his home. He knew all the green lanes and fields for many a mile around: and the dull sound of his horse's hoofs upon the turf of the chalk downs was music in his ears. But there was another association—deeper and more tender—long unsuspected, yet growing steadily, until it absorbed all his thoughts, and gave to that neighborhood a glory and a light invisible to other eyes. Roger had spent many happy hours with his cousin; she had grown in those few years from a girl almost into a woman, and he had come to love her deeply.

To Miss Doughty he said not a word; to Sir Edward he dared not speak; but one day Roger took an opportunity of confiding to Lady Doughty the new secret of his life. To his great joy his aunt did not discourage the idea; but Miss Doughty was still but a girl of fifteen; and there was the grave objection—more than ordinarily grave in the eyes of professors of their religion—that the twain were first cousins. Still, Catholic first cousins do marry with the leave of the Church; and Lady Doughty had too much regard for her nephew to feel displeasure at the thought of his being united to them by a closer tie. But there were important conditions. If the day was ever to come when she could allow him to speak with his cousin on the footing of lovers, he must reform his habits. Though Roger was of a kind and considerate disposition, truthful, honorable, and scrupulous in points of duty, he had certain

habits which assumed serious proportions in the mind of a lady so strict in notions of propriety. He had, even in Paris, acquired the habit of smoking immoderately. In the regiment he had been compelled, by evil customs then prevailing, to go through a noviciate in the matter of imbibing "military port;" and his habits had followed him to Tichborne, where the odor of pipes haunted the terrace-walks throughout his visits; and—horror of horrors—the young officer had been seen at least on one occasion, in a state of preternaturally high spirits, only to be explained by his having lingered in the dining-room too long after the retirement of the ladies. Even worse, he was accustomed to bring in his portmanteau French novels, which were decidedly objectionable, though few young men—or, at least, few young Frenchmen—would probably regard it as much sin to read them. So little did the young man appreciate her objections to this exciting kind of literature that he had actually recommended to his aunt some stories, which no amount of humor and cleverness could prevent that pious lady regarding as debasing, and absolutely immoral. Now, that there seemed a prospect of her nephew's destiny being united with that of a dear and only child, it was natural enough that the mother's standard of perfection in a son-in-law should rise even above a reasonable height. But Jacob toiled seven years for Rachel; and what would Roger not do to please the mother of the young lady whom he loved so deeply? All sorts of pledges were given; all kinds of good resolutions taken; and manful efforts were made to attain to the ideal life which he had resolved upon. But among the distinguished society in which Roger, in common with the other officers, freely mingled, in Dublin, Cahir, Waterford, and Clonmel, Lady Doughty had "good-natured friends," who gave terrible accounts of

barrack life, and the dissipation of young Carabineers. To tell the truth, such idle practical jokes as attiring a young donkey in bedgown and nightcap, and tying him down in the bed of a young brother officer, were not the most innocent of the escapades of young men who, with health and strength, and large capacity for work, were compelled, to a great extent, to lead an idle life. Mess dinners could not be avoided, and occasional deep potations were only to be escaped by the most resolute self-will. How Lady Doughty felt under all this will be best shown by the following extract from one of her letters, among that voluminous mass of Roger Tichborne's correspondence, which may be said to have been almost miraculously preserved :—

" 1850. Tichborne Park, begun 29 Jan., finished 31st.

" MY DEAREST ROGER,—After three weeks being between life and death, it has pleased God to restore me so far that I have this day, for the first time, been in the wheel-chair to the drawing-room, and I hasten to begin my thanks to you for your letters, especially that private one, though it may yet be some days before I finish all I wish to say to you, for I am yet very weak, and my eyes scarcely allow of reading or writing. . . . Remember, dear Roger, that by that conversation in town you gave me every right to be deeply interested in your fate, and, therefore, doubly do I feel grieved when I see you abusing that noblest of God's gifts to man, reason, by diminishing its power. . . . I cannot recall to my mind the subject you say I was beginning in the drawing-room when interrupted; probably it might have had reference to the confidence which you say you do not repent having placed in me. No, dear Roger, never repent it; be fully assured that I never shall betray that confidence. You are young, and intercourse with life and the society you must mix with, might very possibly

change your feelings towards one now dear to you, or rather, settle them into the affection of a brother towards a sister; but, whatever may be the case hereafter, my line of duty is marked out, and ought steadily to be followed—that is, not to encourage anything that cou'd fetter the future choice of either party, before they had fully seen others, and mixed with the world, and with all the fond care of a mother, endeavor, while she is yet so young, to prevent her heart and mind from being occupied by ideas not suited to what should be her present occupations, and hereafter, with the blessing of God, guard her against the dangers she may be liable to be ensnared into by the position in which she is placed.

. . . You have been, I rejoice to hear, raised in the opinion of all with whom you have lately had to transact business, by your firmness and decision. You are in an honorable profession, which gives you occupation.

. . . Resist drink or a rash throwing away life, or wasting in any way the energies of a naturally strong, sensible mind, and really attached heart. Now, write to me soon; tell me truly if I have tried your patience by this long letter which I venture to send, for it is when returning to life, as I now feel, that renewed love to all dear to one seems to take possession of our hearts, so you must forgive it if you find it long. Your uncle and cousin send their kindest love. Adieu, dearest Roger, ever be assured of the sincere affection and real attachment of your aunt,
KATHERINE DOUGHTY."

In replying to letters of this kind, the young man protested that his failings had been exaggerated, and there is a trace of vexation that Lady Doughty should have lent an ear to reports of his manner of life which were colored in an unfriendly way; but there was no abatement in the affectionate terms on which he stood with his aunt at Tichborne.

Matters, however, could not long go on in this fashion. As yet Roger Tichborne had never spoken of his love to Miss Doughty, though it cannot be doubted that some tokens had revealed that secret. Years after these events, Miss Doughty, then Lady Radcliffe, was compelled, in vindication of herself, and for the sake of the rights of others so cruelly assailed, to stand up in a crowded court of justice and re-open those old sorrows. She was then asked kindly by the Judge, whether she did not at that time know that her cousin loved her, and with a simple frankness, she answered, promptly, "My Lord, I *hoped* he did." But love must find expression in something more than hints and tokens, or even hopes. So at last came the inevitable time. It was Christmas Eve, 1851, that Roger joyfully set foot in Tichborne Park once more. That was a happy meeting in all but the fact that Sir Edward Doughty was in weak health. Nothing else clouded the unspoken happiness of the young pair, except, perhaps, the fact that both knew that neither Miss Doughty's father, nor the father and mother of Roger Tichborne as yet knew anything of their growing attachment. But young people are hopeful in such matters, and think but little of the future. Meanwhile, however, Sir Edward had begun to observe how much time the cousins spent together. Miss Doughty had given Roger a keepsake volume of Father Faber's hymns, and there was an exchange of gifts. Suddenly the truth flashed across the mind of the father, and he was vexed and angry. It was on a Sunday morning; the two cousins had been walking in the garden, enjoying the bright winter day, and they were sitting together at breakfast, when a message came that Sir Edward desired to see his nephew in the library.

The bolt had fallen. Roger did not come back to the breakfast-table; but the eyes of the cousins met sorrow-

fully in the chapel, and in the afternoon, with Lady Doughty's permission, they saw each other in the drawing-room, to take farewell. For Sir Edward's fiat had gone forth. Marriage between first cousins was forbidden by the Church, and there were other reasons why he was resolute that this engagement should be broken off before it grew more serious. So the happy holiday was cut short, and it was arranged that on the very next morning early the young man should leave the house forever. Thus the great hope of Roger's life was suddenly extinguished, and there was nothing left for him but to sail with his regiment for India, and endeavor, if he could, to forget the past. Some days after that, at his cousin's request, he wrote out for her a narrative of his sorrows at this time, in which he said:—

“What I felt when I left my uncle, it is difficult for me to explain. I was like thunderstruck. I came back to my room, and tried to pack up my things, but was obliged to give up the attempt, as my mind was quite absent. I sank on a chair, and remained there, my head buried between my two knees, for more than half an hour. What was the nature of my thoughts, my dearest K., you may easily imagine. To think that I was obliged to leave you the next day, not to see you again—not, perhaps, for years, if ever I came back from India. The idea was breaking my heart. It passed on, giving me no relief, until about two o'clock, when my aunt told me that you wished to see me. That news gave me more pleasure than I could express—so much so, that I never could have expected it. The evening that I saw you, my dear K., about five o'clock, you cannot conceive what pleasure it gave me. I saw you felt my going away, so I determined to tell you everything I felt towards you. What I told you it is not necessary to repeat, as I suppose you remember it. When I came

away from the drawing-room, my mind was so much oppressed that it was impossible to think of going to bed. I stopped up until two o'clock in the morning. I do not think it necessary, my dearest K., to tire you with all the details of what I have felt for you during these two days; suffice it to say, that I never felt more acute pain, especially during the night, when I could not sleep. I promise to my own dearest Kate, on my word and honor, that I will be back in England, if she is not married, or engaged, towards the end of the autumn of 1854, or the month of January, 1855. If she is so engaged, I shall remain in India for ten or fifteen years, and shall wish for her happiness, which I shall be too happy to promote."

The young pair had not, however, given up hope of some change. Though Lady Doughty had a secret dread of her nephew's habits, she had a strong regard for him, and would be certain to plead his cause. But, in a very few days, circumstances unexpectedly favored his suit. Sir Edward's malady grew worse, the physicians despaired, and he believed himself near his end. At such times the will is weaker, and he had probably observed the sorrow which his determination had caused to his only child. Hence, perhaps, it was that Roger was sent for, hurriedly, to take farewell of his uncle. As Roger approached the sick bed, his uncle addressed him in these words, which the young man noted down immediately afterwards, for Miss Doughty's eyes:—

"I know, my dear Roger, the mutual attachment which exists between you and your cousin. If you were not so near related, I should not object at all to a marriage between you two, but, however, wait three years; then, if the attachment still exists between you, and you can get your father's consent and also leave from the

Church, it will be the will of God, and I will not object to it any longer."

To which the nephew answered:—

"Ever since I have had the pleasure of knowing you and my cousin, I have always tried to act towards you two in the most honorable way I possibly could. The Church, as you know, grants dispensations on these occasions. Of course, if you approve of it, I will get my father's consent, and also leave from the Church, and do it in an honorable way in the eyes of God and of the world."

Days passed, and Roger sat up night after night in attendance on his uncle's sick bed. It was during those tedious watchings that he again wrote, at Miss Doughty's request, a narrative of his feelings:—

"Tichborne Park, Feb. 4, 1852 (1:30 A. M.)

"I shall go on (he said) with my confessions, only asking for some indulgence if you find them too long and too tedious. You are, my dearest K., the only one for whom I have formed so strong and sincere an attachment. I never could have believed, a few years ago, I was able to get so attached to another. You are the only young person who has shown me some kindness, for which I feel very thankful. It is, in some respects, rather a painful subject for me to have to acknowledge my faults; but, as I have undertaken the task, I must write all I have done, and what have been my thoughts, for the last five weeks. I had a very wrong idea when I left Ireland. It was this—I thought that you had entirely forgotten me. I was, nevertheless, very anxious to come to Tichborne, for a short time, to take a last farewell of you, my uncle, and my aunt. My mind and heart were then so much oppressed by these thoughts, that it was my intention not to come back from India for ten or fifteen years. I loved you, my dearest K., as

dearly as ever. I would have done anything in this world to oblige you, and give you more of that happiness which I hoped I might see you enjoy. I would have given my life for your happiness' sake. To have seen all these things, I repeat again, with a dry eye and an unbroken heart, or for a person who has a strong feeling of attachment towards another, to behold it, is almost beyond human power. These feelings will arise when I shall be thousands of miles from you, but I have taken my pains and sorrows, and your happiness in this world, and said a prayer that you might bear the pains and sorrows of this world with courage and resignation, and, by these means, be happy in the next. When I came here, I found I had been mistaken in the opinion I had formed, and I reproached myself bitterly, for ever having such an idea. It is not necessary for me to mention that I got rid of these bad thoughts in a few minutes. Things went on happily until Sunday, January 11, 1852, when I was sent for by my uncle, at breakfast. What took place between us, I think it unnecessary to repeat, as you know already. I was obliged to leave the next morning, by the first train, for London. I never felt before so deeply in my life, what it was to part with the only person I ever loved. How deeply I felt, I cannot express, but I shall try to explain as much of it as I can in the next chapter.

“What I have suffered last night I cannot easily explain. You do not know, my own dearest K., what are my feelings towards you. You cannot conceive how much I loved you. It breaks my heart, my own dearest K., to think how long I shall be without seeing you. I do feel that more than I can tell you. You have the comfort of a home, and, moreover, at some time or other, some person to whom you can speak, and who will comfort you. I have none. I am thrown on the

world quite alone, without a friend, nothing; but, however, I shall try and take courage, and, I hope that when you will see me in three years, you will find a change for the better. I shall employ these three years to reform my conduct, and become all that you wish to see me. I shall never, my own, my dearest K., forget the few moments I have spent with you, but, on the contrary, I shall only consider them as the happiest of my life. You cannot imagine how much pleasure your letter has given me. It proved to me, far beyond any possible doubt, what are your feelings towards me. I did not, it is true, require that proof to know how you felt for me. It is for that reason that I thank you most sincerely for that proof of confidence, by expressing yourself so kindly and openly to me. You may rest assured, my own dearest K., that nothing in this world will prevent me, except death in actual service, from coming back from India at the time I have named to you—the latter part of the autumn of 1854, or the beginning of 1855. It will be a great comfort for me, my own dearest K., when I shall be in India, to think of you. It will be, I may say, the only pleasure I shall have to think of, the first person I ever loved. You may rest assured, that nothing in the world will make me change. Moreover, if you wish me to come back sooner, only write to me, and I shall not remain five minutes in the army more than I can help. I shall always be happy to comply with your wishes, and come back as soon as possible. Again rest assured, my dearest K., that, if in any situation of life I can be of help or service to you, I shall only be too happy, my dearest K., to serve and oblige you.

“Your very affectionate cousin,

“R. C. TICHBORNE.”

Roger Tichborne went back to his regiment in Ireland, soon after that; but the Carabineers were finally

removed to Canterbury, and in the summer he again got leave of absence, which he spent with his aunt and cousin in London, and finally at Tichborne. This was a joyful meeting, but the happiness of the young pair was tinged with melancholy forebodings, for it was understood that they were then to bid good-bye for many a day. The time when they would be permitted to regard each other as irrevocably engaged, was yet far distant. Nearly three years, indeed, were still to elapse, and the hard condition was that each should be regarded as free during that period, and that they should not even see each other. Roger begged hard to be allowed to write, but even that was forbidden, and he honorably observed the parents' wishes. The test was, perhaps, little in his eyes; but would Miss Doughty, in all that long time of absence, form no other attachment? or, would not her parents seek to escape from a reluctant compromise, by even encouraging other suitors? There was some amount of bitterness in the young man's heart when he thought of these things, but he had a scheme for wearing away the time, and, come what would, he would endeavor to be hopeful.

It was on the 22nd of June, 1852, that the young people walked together for the last time, in the garden of Tichborne House, where Roger had spent so many checkered days. They talked of the future hopefully, but it was a hard task to keep heart. For her comfort, however, he told her a secret. Some months before that time he had made a vow, and written out and signed it, solemnly. It was in these words:—

"I make on this day, a promise, that if I marry my cousin, Kate Doughty, this year, or before three years are over, at the latest, to build a church or chapel at Tichborne, to the Holy Virgin, in thanksgiving for the

protection which she has showed us, in praying God that our wishes might be fulfilled.

“ R. C. TICHBORNE.”

In the eyes of good Catholics such a solemn promise was a pledge of future happiness, and, thus, on the 22nd of June, the two were parted, henceforth never to meet again in this world.

Roger went back to his regiment, and indulged his habitual melancholy. He gave up all parties of pleasure. To his great regret, the order of the Carabineers to go to India had been countermanded ; but he had no intention of leading the dull round of barrack life in Canterbury. He had determined to go abroad for a year and a half or two years ; by that time the allotted period of trial would be near an end. It has been said, by his enemies, that he “ choose to go on a wild and wandering expedition, the motives of which few could understand.” But, there is no difficulty in understanding the motives of Roger Tichborne, when we read the numerous letters which he wrote at this period. He had determined to leave a profession which offered no outlet for his energies. The tame round of the cities and picture-galleries of Europe,—the regulation programme of travel, which, in the last century, used to be known as “the grand tour,” had no charms for him. Among the many books which he read at this time, were the Indian romances of Chateaubriand, “René,” “Attila,” and “Le Dernier Abencerrage,” wherein, amidst much verbiage, is a captivating story of a young Frenchman, who, in past times, went away, to forget his troubles by visiting the Indian tribes in the forests of Florida, and the wild prairies of Louisiana and New Mexico. How deeply these stories impressed his mind, is apparent in his letters to Lady Doughty. “Happy (he says) was the life of René. He knew how to take his troubles with courage, and keep

them to himself,—retired from all his friends, to be more at liberty to think about his sorrows and misfortunes, and bury them in himself. I admire that man for his courage—that is, the courage to carry those sorrows to the grave which drove him into solitude.” But the prairies of Louisiana have, since René’s time, become peopled, and the traveler may now look in vain for Indians in the wilds of Florida. South America promised a richer harvest of savage life and picturesque scenery, and his thoughts had long before been directed to that country. Among his intimate friends and schoolfellows at Stonyhurst, was Mr. Edward Waterton, whose father, the celebrated naturalist, had given to the college a collection of stuffed foreign birds, and other preserved animals ; and, there can be no doubt, that the famous narratives of adventure in South America, of that distinguished traveler, were among the books which Roger and other college friends read at that period. Perhaps, no book of travel more fascinating for youthful readers was ever written than Mr. Waterton’s “Wanderings,” in which he teaches how to sleep in hammocks, in the luxuriant Peruvian forests, and to snare the hideous caiman in the mighty rivers of Brazil. How deeply the splendors of the natural history collection of Stonyhurst had impressed the mind of the boy, is evidenced in the fact that Roger took delight at school in practicing the art of preserving birds and other animals ; while, long afterwards, in humble emulation of the great naturalist’s achievement, he gathered and sent home, when on his travels, many a specimen of birds of splendid plumage. South America, in short, had long been the subject of his dreams ; and now, in traveling in that vast continent, he would try to find occupation for the mind, and get through the long time of waiting, which he had undertaken to bear patiently. His scheme was to spend a twelvemonth in

Chili, Guayaquil, and Peru, seeing, not only wild scenes, but famous cities; thence to visit Mexico, and so, by way of the United States, find his way back to England.

Having taken this resolution, he set about putting his affairs in order, for Roger Tichborne, though endowed with strong passions, was a man of business-like habits, and by no means prone to neglect his worldly interests. When he came of age, he had himself sketched out a new settlement of the great Tichborne and Doughty estates, and his resolute will resulted in his plans being adopted. There had been a desire to sell the house and grounds of Upton, in Dorsetshire; but for this, his consent, as the ultimate heir, was necessary, and he insisted that the property should remain in the family. Upton was the early home of Miss Doughty; he knew of her affection for the place, and he had conceived a plan for making it her home again, whenever he should have power to dispose of it. In this spirit he made his will, —saying, however, as he remarked in one of his letters, “nothing about the church or chapel at Tichborne,” which, he said, he would only build under the conditions mentioned in the paper which he had left in the hands of his dearest and most trusted friend, Mr. Gosford, the steward of the family estates. In truth, months before the day when he gave Miss Doughty that copy of “The Vow,” in the garden at Tichborne, he had solemnly signed and sealed up this compact with his own conscience, and deposited it, with other precious mementos of that time, in his friend’s safe-keeping. Parting with friends in England cost him, perhaps, but little sorrow, for his mind was full of projects to be carried into effect on his return. He aspired to the character of a traveler, and to be qualified for membership at the Travelers’ Club, where, in one of his letters while abroad, he requests that his name may be inscribed as a candidate.

To his cousins, aunts, and uncles, at Knoyle, at Brookwood, and at Towneley, he promised to write frequent letters. He had an old habit of keeping diaries, and he promised to send extracts; and, after all, the time would not be long.

But, there was one house in which Roger Tichborne shrank from saying farewell. He had made a solemn resolution that he would go to Tichborne no more while matters remained thus, and his pride was wounded by what appeared to him to be a want of confidence in his character, on the part of Lady Doughty. In his bitterness, he suspected her sometimes of merely playing with his feelings, and, with secretly determining to bring about another match for her daughter. In a worldly point of view, it is difficult to conceive a union more desirable than that of the two cousins. But, it is clear, that the mother trembled for the future of her child. Hence, she still gave ready ear to tales of the wild life of the regiment, and hinted them in her letters to her nephew in a way that made him angry, but not vindictive. The correspondence between aunt and nephew, continued to the last, and, throughout his long travels, affectionate and tender; but her conduct in one point, cut him to the quick. "I will not go to Tichborne," he thought, "to make a show of my misery to one who plays upon me thus." The idea of a formal parting was hateful. He was asked kindly to go and see his uncle, Sir Edward, before starting; but his will was inflexible, and he went away, as he had all along said that he would, resolved, like René, for awhile at least, "to have the courage to bury his sorrows within himself." Yet, how deeply settled was the passion that had grown up so imperceptibly in those pleasant holidays at Tichborne, may be traced, again and again, in his letters from South America. Except from the mother, he is always craving

for news of the Tichborne circle. "Is Miss Doughty married?" he asks. "Has not one of those Scotch lords, for which my aunt has so much affection, been accepted? I fully expect to see in some newspaper that is sent me, the news of my cousin's wedding." But these were but the bitter outpourings of his wounded sensitiveness; they did not deceive his faithful friend Gosford, who observed, with a smile, how the wanderer always harped upon the old theme.

Roger Tichborne went away in February, and spent nearly three weeks in Paris, with his father and mother, and old friends of his early days. Lady Tichborne was not unnaturally adverse to this plan of traveling; and she opposed it both by her own upbraidings, and by the persuasion of spiritual advisers, who had influence over her son. Chief of these was Father Lefèvre, for whom Roger had always felt so strong an affection. But it was of no avail. Roger's character was of that class which is not easily moved from a resolution once taken, and the days when Lady Tichborne had dreamed of kidnapping him at Stonyhurst were long gone by. He had chosen to sail in a French vessel from Havre—*La Pauline*—no doubt a gratifying token, in the eyes of his mother, that he had not, after all, become heart and soul an Englishman. The fact was, that although the young man's diligent studies in England had resulted in a considerable mastery of the power of writing in English, French was still his mother tongue. In writing, he sometimes translated French idioms with a literalness that was amusing to his friends, and not seldom, his spelling of English words was incorrect; besides which he was often at a loss to find language to express his thoughts with the readiness which is necessary in conversation. His voyage to Valparaiso was to last four months, and thence he was going on in the same vessel



to Peru. It was, doubtless, for these reasons that, though he took an English servant with him, he preferred a French ship, with a French captain and French seamen. Thus, it was, that on the 1st of March, 1853, he sailed away from Europe, never to return.

The incidents of Roger Tichborne's travels need not occupy us long. The *Pauline* started with bad weather, which detained her in the Channel, and compelled her to put in at Falmouth, but, after that, she made a prosperous voyage round Cape Horn to Valparaiso, where she arrived on the 19th of June. As the vessel was to remain there a month, Mr. Tichborne, after spending a week in Valparaiso, started, with his servant, John Moore, to see Santiago, the capital of Chili, at about ninety miles inland. Thence he returned and sailed for Peru, where he embarked for places in the north. At Santiago his servant had been taken ill, and, though recovering, was unfitted to travel. His master, thereupon, furnished him with funds to set up a store, and took another servant, with whom he underwent many adventures. At Lima, he visited and sent home descriptions of the magnificent churches, bought paintings and curiosities, which he dispatched to England, carefully packed, and saw bull fights and other sights characteristic of the manners of the Spanish inhabitants. On the great rivers he beheld, as he said, "for the first time, tropical vegetation in all its beauty." Having stored a little yacht with provisions, he started, with his servant, on a voyage of about three hundred miles up the river Guayaquil, and was for some days under the Line; he made similar journeys in a canoe, with his servant and two Indians, still bent on his favorite pursuit of collecting and preserving rare birds of gorgeous plumage. Besides these feats of activity, he visited and explored silver and copper mines. Neither the fatigue of traveling, nor the

tropical heats abated his ardor. Yet all this while he was a diligent correspondent, and every mail brought abundant narratives of his adventures. Scores of letters written at this time to his father and mother, to Lady Doughty, Mr. Gosford, Mrs. Greenwood, and other friends and relatives still exist, evincing not only his untiring industry and his intelligent interest in the scenes and objects passing before him, but placing beyond all doubt the fact that his sympathies with home, and, above all, his love for his cousin, had undergone no change, had, indeed, only grown deeper from long absence.

Sad news had reached him on his wanderings. There was sorrow once more at Tichborne. Scarcely had the *Pauline* left sight of our shores, when Sir Edward Doughty's long-lingering illness terminated in death, and Roger's father and mother, now Sir James and Lady Tichborne, were coming over from Paris to take up their home there with their little boy Alfred. By and by the wanderer began to retrace his steps, came back to Valparaiso, and, with his last new servant, Jules Berraut, rode thence in one night ninety miles to Santiago again. Again he started with muleteers and servants, on the difficult and perilous journey over the lofty Cordilleras, and thence across the Pampas to Buenos Ayres, Monte Video, and Rio de Janeiro.

In April, 1854, there happened to be lying in the harbor of Rio a vessel which hailed from Liverpool, and bore the name of the *Bella*. She was about to sail for Kingston, Jamaica, on her way to New York, and it was to Kingston that Roger had directed his letters and remittances to be forwarded, that being a convenient resting place on his journey to Mexico, where he intended to spend a few months. The *Bella* was a full-rigged ship, of nearly 500 tons burden, clipper-built, and almost new. Aboard this ship, then taking in her cargo of



coffee and logwood, came, one April morning, a young English gentleman, in half-nautical costume, pea-jacket, round hat, and wide trowsers. His skin was reddened and browned by exposure to the sun, and his whole appearance was that of a man who had been much knocked about by travel in uncivilized lands. The stranger introduced himself as Mr. Tichborne. He wanted a passage to Kingston, but was in a little difficulty. Traveling with servants, hiring yachts and canoes, buying paintings, curiosities, and natural history specimens, had proved more expensive than he expected. In short, his funds were exhausted; nor could his purse be replenished until he got to Kingston, where letters from his bankers, Messrs. Glyn & Co., were expected to be in waiting for him. It is probable, that in much beating about the globe, Captain Burkett had heard stories of this kind before. Any way, he knew that the stranger's tale was not necessarily true because somebody told it. Therefore, putting his visitor off for the present with kind words, he took a leaf from the book of Captain Cuttle, and consulted another sea-captain, Mr. Oates, master of the ship *John Bibby*. Oates was the bosom friend of Burkett; their ships belonged to the same owners. When confusion, arising from loading or unloading, reigned in the one ship, the two captains slept aboard the other vessel, and thus, at this time, the *Bella* was Captain Oates's home. Oates being consulted, exhibited his shrewdness. "Let us," he said, "invite this young Englishman to sup aboard; from his conversation we shall be able to judge whether he is a gentleman, and likely to be the person he pretends to be." So Roger, not suspecting this little manœuvre, received an invitation, supped with the worthy captains, and was interviewed and inspected, and made friends with them at once. But Burkett did not only undertake to convey

his visitor to Kingston, in full reliance on his promises; he determined to help him in a matter of some delicacy, and not a little danger; for when the vessel was near sailing Mr. Tichborne was found to be without the indispensable requisite of a passport. Great excitement then prevailed in Brazil on the subject of runaway slaves. Black slaves had escaped by making themselves stow-aways; "half-caste" people, relying on their comparative fairness of skin, had openly taken passage as seamen, or even passengers, and thus got away from a hateful life of bondage. Hence, the peremptory regulation that no captain should sail with a stranger aboard, without an official license. Under these circumstances a plan was devised by the captain and his bosom friend. When the Government officers came aboard, no Mr. Tichborne or other stranger was visible. As the vessel, loosed from her moorings, was slowly drifting down the harbor in early morning, the officers sat at a little table on deck, smoked cigars, and drank coffee with the two captains. At length the moment came to call their boat and take farewell, wishing the good ship *Bella* and her valuable freight a pleasant voyage. Scarcely had they and Captain Oates departed, when the table was removed; and just beneath where the officers had been sitting, a circular plug closing the entrance to what is known as the "lazarette" was lifted, and out came Mr. Tichborne, laughing at the success of their harmless device. Before noon the *Bella* had passed through the narrow outlet from the grand harbor of Rio into the open Atlantic, and, spreading all her sails, was soon on her voyage northward.

That was on the 20th day of April, 1854, but never, from that day, did the good ship *Bella* furl sail or cast an anchor in any port. Only six days after she had left the port of Rio, a vessel, traversing her path, found tokens

of a wreck—straw bedding, such as men lay on deck in hot latitudes, a water-cask, a chest of drawers, and among other things a long boat floating bottom upwards, and bearing on her stern the ominous words "*Bella*, Liverpool." These were brought into Rio, and forthwith the Brazilian authorities caused steam vessels to go out and scour the seas in quest of survivors; but none were seen. That the *Bella* had foundered there was little room to doubt; though the articles found were chiefly such as would have been on her deck. Even the items of cabin furniture were known to have been placed on deck to make way for merchandise, with which she was rather heavily laden. The night before these articles were found had been gusty, but there had been nothing like a storm. When time went by and brought no tidings, Captain Oates and other practical seamen came to the mournful conclusion that she had been caught in a squall; that her cargo of coffee had shifted, as it is called, and that hence, unable to right herself, the *Bella* had gone down in deep water, giving but little warning to those who were unhappily aboard.

In a few months this sorrowful news was brought to Tichborne, where there was once more great mourning. One by one the heirs of the old House were disappearing; and now it seemed that all the hopes of the family must be centred in the young Alfred, then a boy of fifteen. So, at least, felt Sir James Tichborne. He had inquiries made in America and elsewhere. For a time there was a faint hope that some aboard the *Bella* had escaped, and had, perhaps, been rescued by some vessel. But months went by and still there was no sign. The letters of news that poor Roger had so anxiously asked to be directed to him at the Post Office, Kingston, Jamaica, remained there till the paper grew faded. The bankers' bill, which was wanted to pay the passage

money, lay at the agents', but neither Captain Burkett nor his passenger came to claim it. Weeks and months rolled on; the annual allowance of one thousand a year, which was Mr. Tichborne's by right, was paid into Glyn and Co.'s bank to his account; but no draft under Roger Tichborne's hand was ever more presented at their counters. The diligent correspondent suddenly ceased to correspond. Down to the very time of his embarkation at Rio Roger had kept friends in England informed of all his movements, and every post had brought with it letters giving and asking news. But now, for the first time, the post was silent. More months elapsed, and the agony of suspense found no relief save in the growing conviction that all hope was idle. The vessel had gone down, that was clear, and with her all on board had perished. If not, why that dread silence? The captain and some of the crew had wives and children; they had hitherto been good husbands, kind fathers. Had they suddenly lost all interest in those who were dear to them? There was probably not a man aboard so poor in friends that some English household was not grieving for his sake. But it was everywhere the same—no tidings for the widow, the orphan, or the friends. At Lloyd's the unfortunate vessel was finally written down upon the "Loss Book"—the insurance was paid to the Liverpool owners, and in time the *Bella* faded away into the great shadowy fleet of ships that have put forth upon the wide ocean never to come home again.

Years past, and Sir James and his wife led a secluded life in the house at Tichborne. Few strangers or even relatives visited them. Lady Tichborne's antipathy to the family of her husband, and her hatred of all things English, had long estranged her from the family of Sir James, and her singular temper rendered visiting at

Tichborne by no means agreeable. The disconsolate mother lived now only in the thought of her lost son. Day after day and year after year the fixed idea possessed her that he was still living, wandering somewhere, unwilling to come back—for what reason she knew not, nor did she care to inquire. It was in vain that Sir James told her that sorrow was idle, and all hope at an end.

Of what avail to reason? If Roger Tichborne had really chosen the moment when the *Bella* disappeared to disappear also, surely never did hoax so purposeless prove more cruel in its consequences. The key to all this was the impulsive, self-willed, but essentially weak and visionary character of the Lady of Tichborne, nourished as it was now in all its failings, by the sorrows she had endured. Proofs which satisfied underwriters and Courts of Probate, were to this poor lady miserable evidences as against her own ardent wishes. She was, with all her failings, a religious woman, and she had been bred in a faith which has not yet come to regard the miraculous interposition of saints and angels as only things of the remote past. To her, the coming back of her son was no impossibility, but rather a thing which prayer and earnest watching would, in the end, assuredly bring to pass. Certain it is that the mother kept lamps alight in the hall at Tichborne, from dusk till daybreak, often going herself, when there was no moon, and stars were dimmed, into the grounds about the house, holding a lantern in her feeble hands to light the way, lest her poor, lost son—who to those who wanted the eyes of faith, seemed to be surely lying under the Atlantic waves—should, coming back after long years, miss his way, even in those familiar paths.

A mood of this kind is not unlikely to beget imposture. Long before this, the fact that Lady Tichborne

hoped against faith, and refused to believe any arguments in favor of the view that her eldest son was drowned, was well known in the county of Hampshire, and it has been related, how one day a tramp in the dress of a sailor found his way to Tichborne, and having poured into the willing ears of the poor mother a wild story of some of the survivors of the *Bella* being picked up off the coast of Brazil, and carried to Melbourne, was forthwith regaled and rewarded. There is a freemasonry among tramps and beggars which sufficiently explains the fact that after that the appearance of a ragged sailor in Tichborne Park became a common occurrence. Sailors with one leg, and sailors with one arm, loud-voiced, blustering seamen, and seamen whose troubles had subdued their tones to a plaintive key, all found their way to the back door of the great house. Every one of them had heard something about the *Bella's* crew being picked up; and could tell more on that subject than all the owners, or underwriters, or shipping registers in the world. And poor Lady Tichborne believed, as is evidenced by a letter of hers, written in 1857, only three years after the shipwreck, to a gentleman in Melbourne, imploring him to make inquiries for her son in that part of the world. Sir James, however, though no less sorrowful, had no faith; and he made short work of tramping sailors who came to impose on the poor lady with their unsubstantial legends.

But Sir James, unhappily, died in 1862. Shortly before this event his only surviving son, Alfred, had married Theresa, a daughter of the eleventh Lord Arundell of Wardour. This fact, however, did not prevent the mother, in her crazy moods, taking a step manifestly calculated to induce some imposter to come forward and claim to be the rightful heir. This step was the insertion of an advertisement in the *Times*, offering a reward

for the discovery of her eldest son, and giving a number of particulars with regard to his birth, parentage, age, date and place of shipwreck, and name of vessel, and other matters. More than that, she incorporated in her advertisement the vague stories of the tramping sailors, about his having been picked up and carried to Melbourne; and this mischievous advertisement was published in various languages, and, doubtless, copied in the South American and Australian newspapers—the facts being of a romantic character, and being associated with those parts of the globe.

Still time rolled on, and no Roger Tichborne, real or fictitious, made his appearance. One day the Dowager happened to see in a newspaper a mention of the fact that there was in Sydney a man named Cubitt, who kept what he called “a Missing Friend's Office.” To Cubitt, accordingly, she wrote a long rambling letter, in which, among other tokens of her state of mind, she gave a grossly incorrect account of her son's appearance, and even of his age; but Cubitt was to insert her long advertisement in the Australian papers, and he was promised a handsome reward. Cubitt, in reply, amused the poor lady with vague reports of her son being found in the capacity of a private soldier, in New Zealand; and, as there was war there at that time, the poor Dowager wrote back, in an agony of terror, to entreat that he might be bought out of the regiment. Mr. Cubitt could not fail to perceive the singular person he had to deal with; and his letters from that time were largely occupied with requests for money, for services which have been stigmatized by a high authority as almost entirely imaginary.

At last came more definite information. A Mr. Gibbes, an attorney at the little town of Wagga-Wagga, two hundred miles inland from Sydney, had, he said, “spotted” the real Roger Tichborne, living “in a humble

station of life," and under an assumed name. Again money was wanted. Then Gibbes, apparently determined to steal a march on Cubitt, wrote direct to the credulous old lady, and there was much correspondence between them. At first there were some little difficulties. The man who, after a certain amount of coyness, had pleaded guilty to being the long-lost heir, still held aloof in a strange way, concealed his present name and occupation, and instead of going home at once, preferred to bargain for his return through the medium of an attorney and the keeper of a missing friends' office. All this, however, did not shake the faith of Lady Tichborne. Then he gave accounts of himself, which did not in the least tally with the facts of Roger's life. He said he was born in Dorsetshire, whereas Roger was born in Paris; he accounted for being an illiterate man by saying that he had suffered greatly in childhood from St. Vitus's Dance, which had interfered with his studies. "My son," says Lady Tichborne, in reply, "never had St. Vitus's Dance." When asked if he had not been in the army, he replied, "Yes," but that he did not know much about it, because he had merely enlisted as a private soldier "in the sixty-sixth Blues," and had been "bought off" by his father after only thirteen days' service. "What ship did you leave Europe in?" inquired Mr. Gibbes, with a view of sending further tokens of identity to the Dowager. To this inquiry, as we have seen, Roger Tichborne might have been expected to answer in *La Pauline*, but this mysterious person replied, in *The Jessie Miller*. "And when did she sail?" "On the 28th of November, 1852," was the reply; whereas Roger, as we have seen, sailed on the 1st of March, 1853. Asked as to where he was educated, the long-lost heir replied, "At a school in Southampton," where Roger never was at school. But, it happened that Lady Tich-

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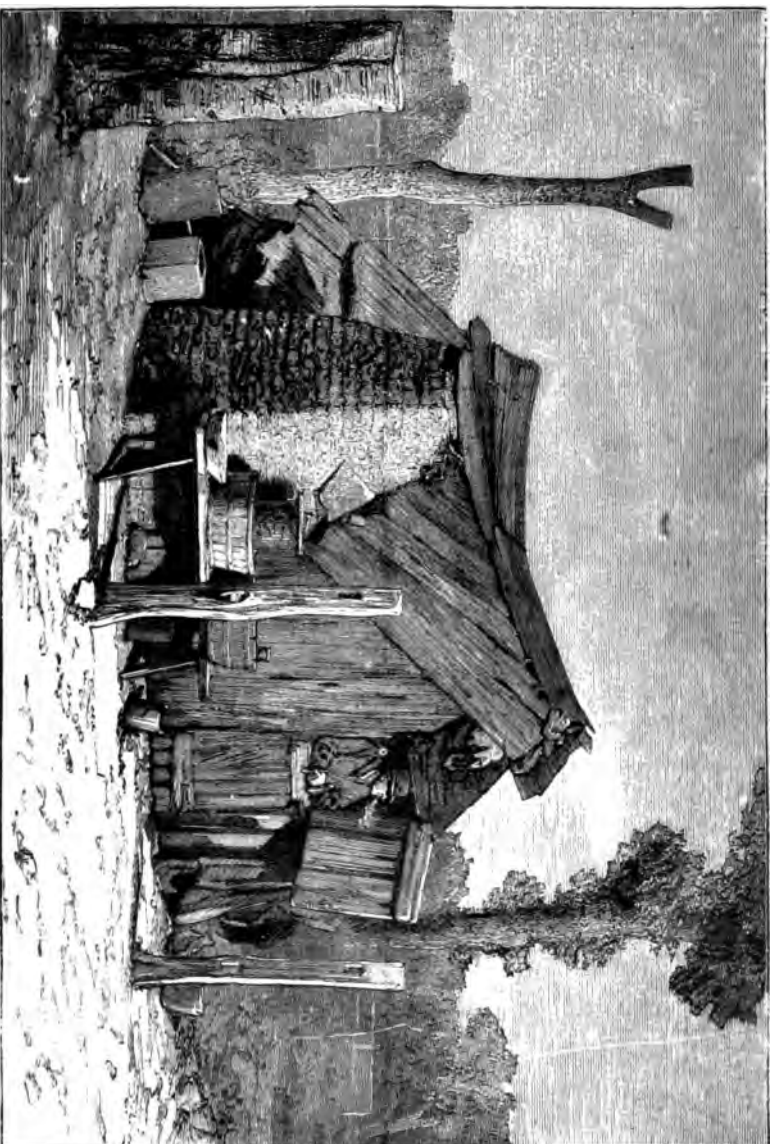
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HUT IN WHICH THE CLAIMANT LIVED AT WAGGA WAGGA.

borne, in a letter to Mr. Gibbes, had said that her son was for three years at the Jesuit College of Stonyhurst, in Lancashire. Mr. Gibbes, accordingly, suggested to his client, "in a humble station of life," that his memory was at fault on that point, but the client maintained his ground. "Did she say he had been at Stonyhurst College? If so, it was false;" and, he added, with an oath, "I have a good mind never to go near her again, for telling such a story." Still, this strange person was able to confirm the entire story of the tramping sailors. He *had* embarked in the *Bella*, he *had* been picked up at sea with other survivors, in a boat, off the coast of Brazil, and it was quite true that he was landed with them in Melbourne. In short, he corroborated the Dowager's long advertisement in every particular; but beyond that, he had nothing of the slightest importance to tell which was not absurdly incorrect. His replies, however, were forwarded to the Dowager, with pressing requests to send £200, then £250, and finally £400, to enable the lost heir to pay his debts—an indispensable condition of his leaving the colony. It is evident that the statements thus reported puzzled the poor lady a little, and she seems to have been unable to account for the lost heir sending his kind remembrance to his "grandpa," because Roger Tichborne's paternal grandfather died before he was born; and his grandfather by the mother's side had also died several years before Roger had left England, as the young man knew well enough, for he took farewell of him on his last illness. She was clearly a little surprised to hear that the resuscitated Roger did not understand a word of French, for "my son," she says, "was born in Paris, and spoke French better than English." Still, she believed. "I fancied," she said in one letter to Gibbes, "that the photographics you sent me are like him, but, of course, after thirteen years' absence



there must have been some difference in the shape, as Roger was very slim; but," she added, "I suppose all those large clothes would make him appear bigger than he is." Again, alluding to the "photographics," she remarks that at least the hand in the portrait is small, and adds, "that peculiar thing has done a good deal with me to make me recognize him."

A year and a half was consumed in these tedious haggings with brokers and agents for the restoration of a lost heir, and during great part of that time the lost heir himself made no sign, but contented himself with begging trifling loans of Gibbes on the strength of his pretensions. Sometimes a pound was the modest request; sometimes "two pound." He had married, and a child was born, and on that occasion he implored for "three pound," plaintively declaring that he was "more like a mannick than a B. of B. K. (supposed to mean a Baronet of British Kingdom) to have a child born in such a hovel." Still the client of Mr. Gibbes, and now claimant to the vast estates of Tichborne, wrapped himself in impenetrable secrecy. The Dowager Lady Tichborne complains that while pressed to send everybody money, she was not even allowed to know the whereabouts nor present name of her lost Roger; and she entreated, piteously, to be allowed to communicate more directly. It was nothing to her that the accounts he had given of Roger Tichborne's life were wrong in every particular, except where her own advertisement had furnished information. "I think," she said on this point, "my poor, dear Roger confuses everything in his head, just as in a dream, and I believe him to be my son, though his statements differ from mine."

It was in the midst of this curious triangular correspondence between Gibbes in Wagga-Wagga, Cubitt in Sydney, and the poor mother in Paris, that trouble

Arthur Orton to his
Sister in 1866

Wagga Wagga
M S P
June 3rd /66

My Dear and beloved
Sister. It may years now
since i heard from any
of you I have never heard
a word from any one I
knew since 1854. But my
friend Mr Stephens is about
starting for England. And
he has promised to find
you all out and write
and let me know all
about you I do not intend
to say much because he
can tell you all about me
Hoping my dear sister
he will make him welcome
For he is a dear friend of
mine so good bye Arthur Orton
26
M

once more entered the old home at Tichborne. Sir Alfred, the younger brother of Roger, was dead, and the poor half-crazed mother, in her solitary lodging in the Place de la Madeleine, was left more than ever desolate. Widowed and childless, she had nothing now but to brood over her sorrows, and cling to the old dream of the miraculous saving of her eldest born, who, since the terrible hour of shipwreck—now twelve years past—had given no token of existence. The position of affairs at Tichborne was remarkable, for though there were hopes of an heir to Tichborne, Sir Alfred had left no child. For the moment the curse of Lady Mabella seemed to be fulfilled. Should the child—unborn, but already fatherless—prove to be a girl, or other mischance befall, there was an end of the old race of Tichborne. The property would then go to collaterals, and the baronetcy must become extinct. It was under the weight of these new sorrows that the Dowager Lady Tichborne wrote pitiable letters to Gibbes, promising money and asking for more particulars; while inclosing, at the same time, to the man who thus unaccountably kept himself aloof, a letter beginning, “My dear and beloved Roger, I hope you will not refuse to come back to your poor afflicted mother. I have had the great misfortune to lose your poor dear father, and lately I have lost my beloved son Alfred. I am now alone in this world of sorrow, and I hope you will take that into consideration, and come back.”

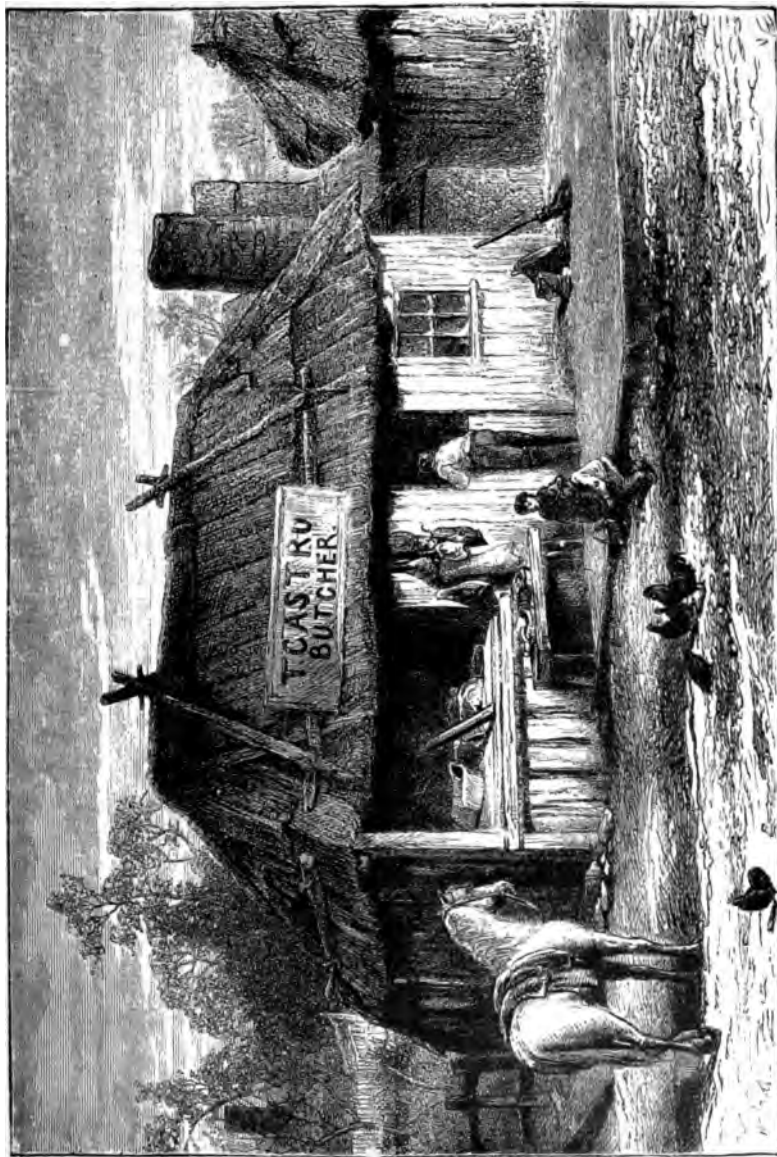
It is hardly surprising that during this time Mr. Gibbes was constantly urging his mysterious client to relinquish his disguise. Why so shy? In the commencement of the affair he had, it is true, been shy and reserved; and, but for the imprudent fellow's habit of carving the initials R. C. T. on mantel-pieces, and marking them on his pipe, and smoking it under Mr. Gibbes'



nose—and this just at the time when the Dowager's advertisement was flourishing in the Australian papers—that simple-minded attorney might never have discovered his secret. But now all reserve was thrown off, at least between attorney and client; and it had long been understood that the wanderer was willing to go home and claim his title and estates. Why, then, not declare himself boldly? Why not write to the mother and mention some facts known only to those two, which would at once convince her? True, he had already mentioned "facts," which turned out to be fictions, and yet the Dowager's faith was unabated. Mr. Gibbes' client was, therefore, justified in his answer, that he "did not think it needful." But, Gibbes was pressing, for it happened that the Dowager had, in one of her letters, said, "I shall expect an answer from him. As I know his handwriting, I shall know at once whether it is from him." Accordingly, Mr. Gibbes' client, under the eye of his attorney, sat down at last, and penned the following epistle:—

"Wagga-Wagga, Jan. 17 66.

"My Dear Mother,—The delay which has taken place since my last Letter Dated 22d April 54 Makes it very difficult to Commence this letter. I deeply regret the trouble and anxiety I must have caused you by not writing before. But they are known to my Attorney And the more private details I will keep for your own Ear. Of one thing rest Assured that although I have been in A humble condition of Life I have never let any act disgrace you or my Family. I have been A poor Man and nothing worse. Mr. Gibbes suggest to me as essential. That I should recall to your memory things which can only be known to you and to me to convince you of my Identity. I don't think it needful my dear Mother. although I send them Namely. the Brown Mark on my



THE SHOP OF CASTRO THE BUTCHER AT WAGGA WAGGA.



2. The second section focuses on the role of communication in achieving organizational goals. It highlights the importance of clear and concise communication, both internally and externally. The text provides guidelines for effective communication, such as using appropriate language, listening actively, and providing feedback. It also discusses the benefits of open communication and how it can foster a collaborative work environment.

3. The third part of the document addresses the challenges of managing resources and personnel. It discusses the importance of efficient resource allocation and the need for effective personnel management. The text provides strategies for identifying and addressing resource gaps, as well as techniques for motivating and managing staff. It also mentions the importance of training and development in ensuring the organization has the necessary skills and knowledge to succeed.

4. The final section discusses the importance of innovation and continuous improvement. It emphasizes that organizations must be willing to embrace change and seek out new ideas and solutions. The text provides guidelines for fostering a culture of innovation, such as encouraging creativity, providing resources for experimentation, and recognizing and rewarding innovative ideas. It also mentions the importance of monitoring and evaluating the effectiveness of new initiatives and making adjustments as needed.

side. And the Card Case at Brighton. I can assure you My Dear Mother I have keep your promice ever since. In writing to me please enclose your letter to Mr. Gilbes to prevent unnesersery enquiry as I do not wish any person to know me in this Country. When I take my proper propositon and title. Having therefore made up my mind to return and face the Sea once more I must request you to send me the Means of doing so and paying a fue outstranding debts. I would return by the overland Mail. The passage Money and other expences would be over two Hundred pound. for I propose Sailing from Victoria not this colonly And to Sail from Melbourne in my own Name. Now to annable me to do this my dear Mother you must send me "——

In the original letter the half-sheet is now torn off at this point, but it has been stated by the Dowager's solicitor, who saw it when complete, that the ending originally contained the words "How's Grandma?" If so, the fact must have again puzzled the Dowager, for Roger had no "Grandma" living when he went away. The date, "22d April, '54," was also certainly incorrect, for the *Bella* sailed away on April 20th, and was never heard of more. But there were other difficulties; Lady Tichborne had never seen, and what is more, had never heard of any brown mark on her son Roger; she could say nothing about the "card case at Brighton" (which referred, according to Mr. Gibbes, to the Claimant's assertion that he had left England in consequence of having been swindled out of £1,500 by prize-fighters at Brighton races), and lastly the anxious mother could not recognize the handwriting. From the fac-similes of the writings of Roger Tichborne and that of the Wagga-Wagga correspondent, which we are enabled to give, the reader may judge for himself

whether there was good ground for her hesitation. He will also see that her correspondent was somewhat disappointed that the mother did not on this evidence at once "acknowledge him as her son;" adding, "surely, my dear Mama, you must know my writing. You have caused me a deal of trouble." The reproaches, however, were needless, for the Dowager declared her unabated faith; sent small sums and then larger, and finally made up her mind to forward the four hundred pounds. Meanwhile she sent to him, as well as to her other Australian correspondent, much family information. Among other things, she told him that there was a man named Guilfoyle at Sydney, who had been gardener for many years at Upton and Tichborne, and another man in the same town named Andrew Bogle, a black man, who had been in the service of Sir Edward. Mr. Gibbes' client lost no time in finding out both these persons. Whether he was, in fact, Roger Tichborne, or whether he was an impostor, there was now really no reason why he should not set sail to join the Dowager in Paris. Her letters, spread over many months, had revealed her singular character. They had shown her proof against every suspicious token. Even total dissemblance of handwriting had not shaken her faith, and it was evident from her letters that the "photographics," making allowances, as she said, for changes, were in her fancy like her son. Why, then, should he hesitate?

It was shortly after this time that it became known in the colonies of Victoria and New South Wales that there was a man named Thomas Castro, living in Wagga-Wagga as a journeyman slaughterman and butcher, who was going to England to lay claim to the baronetcy and estates of Tichborne. From the letters and other facts it is manifest that it was originally intended to keep all this secret even from the Dowager. "He wishes," says

The Claimant to
Lady Tichborne in 1868.

Sydney July 24/68

My Dear Mamma

I received your letter
yesterday morning. And was
somewhat disappointed. that
you do not acknowledge
me has your signature
my dear mamma you must
know my writing. You have
caused me a deal of trouble
but it matters not. Has I have
no wish to leave a country
+ + + + +
with Good bye my dear mamma
and may the Blessed Virgin have
mercy on your soul.

I remain your

Affectionate Son

Roger Charles Tichborne



his attorney, Mr. Gibbes, "that his present identity should be totally disconnected from his future." It happened that one Cator, a Wagga-Wagga friend of the Claimant, whose letters show him to have been a coarse-minded and illiterate man, was leaving for England shortly before the time that Castro had determined to embark. Whether invited or not, Cator was not unlikely to favor his friend with a visit in the new and flourishing condition which appeared to await him in that country. Perhaps for this reason and clearly for the sake of avoiding inconveniences that might result from this man's knowledge of the past, Castro gave to Cator a sealed envelope, bearing outside the words, "To be open when at sea," and inside a note, verbatim, as follows:

"Wagga Wagga, April 2nd, 1866.

"Mr. Cator,—At any time wen you are in England you should feel enclined for a month pleasure Go to Tichborne, in Hampshire, Enquire for Sir Roger Charles Tichborne, Tichborne-hall, Tichborne, And you will find One that will make you a welcome Guest. But on no account Mension the Name of Castro or Alude to me being a Married Man, or that I have being has a Butcher. You will understand me, I have no doubt. Yours truly, Thomas Castro. I Sail by the June Mail."

All this secrecy, however, was soon given up as impracticable; for articles in the famous *Melbourne Argus*, and the Wagga-Wagga and Sydney journals, quickly brought the news to England, and finally Castro determined to take with him his wife and family. One of his earliest steps was to take into his service the old black man, Bogle, and pay the passage-money both of himself and his son to Europe with him. Whether Bogle believed the stout slaughterman of Wagga-Wagga to be the same person as the slim young gentleman whom he must have seen often on his visits to Tichborne many

years before; whether he was consciously assisting a fraud, or whether he was merely indifferent to the question of whether it was a fraud or not—is matter still of fierce controversy. A high authority has acquitted the old black man of anything like criminal connivance. But that he was useful in aiding Castro's claims is certain; and it is equally certain that though clear enough in intellect, he was decrepit and unable to render any other kind of service in return for the wages and the heavy expenses which his new master undertook on his account. Certain relics of Upton and of Tichborne, which the Claimant forwarded to a banker at Wagga-Wagga from whom he was trying to obtain advances, were described by the Claimant himself as brought over by "my uncle Valet who is now living with me." The bankers, however, were cautious; when the Claimant made statements about his past history, they were enabled from more than one source to compare them with facts in the true life—especially as regards the military career—of Roger Tichborne. Hence it was that they declined to make loans, though Mr. Gibbes was able to prove that the mother had thought favorably of the "Photographics." Nevertheless the Claimant had the good fortune to convince a Mr. Long, who was in Sydney and had seen Roger "when a boy of ten years old riding in Tichborne Park," and accordingly this gentleman advanced him a considerable sum. Finally, the Dowager received the information that her long-lost son, Roger Tichborne, had embarked aboard the *Rakaia* on his way to France *via* Panama.

"Sir Roger" and "Lady Tichborne," accompanied by their family, and attended by old Bogle, his son, and a youthful secretary, left Sydney on September 2nd, 1866, and the long-lost heir was expected by the Dowager in

Roger Tichborne
to his Solicitor
Mr. Straighter
in 1851

Galles Barracks, Tisbury
My Dear Sir Private.

You will remember promising
that some time ago I told you
of my intention of making
some arrangements in regard
to my property: x x x x x x x

Let me know clearly what sum
of property I should have a
right to dispose of by a will.

I should be glad to hear from
you soon. I shall write to you
again. I remain My Dear Sir

R. Tichborne
1. of February 1851. Gloucester.



Paris within two months from that date. But nearly four months had elapsed, and there were no tidings.

Between Christmas Day and New Years' Eve of that year there arrived in Alresford a mysterious stranger, who put up at the Swan Hotel in that little town, and said that his name was Taylor. He was a man of enormous bulk and of eccentric attire. He wrapped himself in large great coats, muffled his neck and chin in thick shawls, and wore a cap with a peak of unusual dimensions, which, when it was pulled down, covered a considerable portion of his features.

The Swan is a good old-fashioned hostelry, with a wide entrance and extensive ranges of stables. Visitors there in the hunting season are by no means rare; but then the Swan generally knows its patrons, and this man was strange. He seemed to have no business there, and to know nobody. He preferred a private room to the coffee-room, and he went out for solitary walks. Yet he was not altogether shy and uncommunicative; on the contrary, he stopped poor people on the roads, asked the way to Tichborne Church, about three miles off, and casually mentioned the current rumor that Roger Tichborne was coming back.

The stranger showed further signs of coming out of his reserve. Mr. Taylor sent for Rous, the landlord, and had a chat with him, in the course of which he asked Rous to take him the next day for a drive round the neighborhood of Tichborne. Rous complied, and the innkeeper, chatting all the way on local matters, showed his guest Tichborne village, Tichborne park and house, the church, the mill, the village of Cheriton, and all else that was worth seeing in that neighborhood. In fact Mr. Taylor became very friendly with Rous, invited him to drink in his room, and then confided to him an important secret—which, however, was by this time no

secret at all, for Mr. Rous had just observed upon his guest's portmanteau the initials "R. C. T." Indeed it was already suspected in the smoking-room of the Swan that the enormous stranger was the long-expected heir. Suspicion became certainty when the stranger telegraphed for Bogle, and that faithful black, once familiar in the streets of Alresford, suddenly made his appearance there, began reconnoitering the house at Tichborne, contrived to get inside the old home, to learn that it had been let by the trustees of the infant baronet to a gentleman named Lushington, and to examine carefully the position of the old and new pictures hanging on the walls.

This done, "Mr. Taylor" and his black attendant disappeared as suddenly as they had come. But the news spread abroad, and reached many persons who were interested. Roger's numerous aunts, uncles, and cousins heard of the sudden appearance of the long-expected Australian claimant. The Dowager in Paris, the mother of the infant, then at Ryde, all heard the news; and finally Mr. Gosford, Roger's dearest and most intimate friend and confidant, then in North Wales, got intelligence, and hastened to London to ascertain if the joyful news could be true.

But the enormous individual had vanished again. The circumstance was strange. Bogle, it was true, had written letters from Australia declaring that this was the identical gentleman he had known years before as Mr. Roger Tichborne, when a visitor at Sir Edward's; and the Dowager, though she had declined to show her relatives the "photographics," had declared herself satisfied. But why did the long-lost Roger hold aloof? Why did he not rush down to see his old friend Gosford? Why no note even to Lady Doughty?—no token of old friendship to relations at Brookwood, at Townely, or at Knoyle.

Arthur Orton to
Miss Loader in 1862.

Torreye ^{Christmas day}
[Torquay]

My Dear Mary, am

I take the opportunity
of writing these few lines to you
which I hope will find you quite
well, as it leaves me the same
I little though that I should have
been & am far from further than
this now or I should have had
my Christmas at home. I have
had a happy Christmas it is true
give my Love to your
Mother and all your en-
dowed friends and except the same
from your affectionate
and well wishing friend

Arthur Orton
Good bye

Middletown Light House

Robert Town



With infinite pains Mr. Gosford and a gentleman connected with the Tichborne family, ascertained that the person who had figured as Mr. Taylor, at the Swan, had taken apartments for himself and his family at an hotel near Manchester Square, and that he had even been there since Christmas Day. But once more the clue was lost. Sir Roger Tichborne had gone away, with his wife and children, and left no one there but Bogle and his secretary. Then, by miraculous chance, Mr. Gosford discovered that "Sir Roger" was staying at the Clarendon Hotel, Gravesend. Forthwith, Mr. Gosford, with the gentleman referred to, and Mr. Cullington, the solicitor, went to the Clarendon Hotel at Gravesend, where, after long waiting in the hall, they saw a stout person, muffled, and wearing a peaked cap over the eyes, who, having glanced at the party suspiciously, rushed past them, hurried up-stairs, and locked himself in a room. In vain the party sent up cards, in vain Mr. Gosford followed and tapped at the door. The stout person would not open, and the party descended to the coffee room, where, soon afterwards, they received a mysterious note, concluding:—

"pardon me gentlemen but i did not wish any-one to know where i was staying with my family. And was much anoyed to see you all here. R. C. TICHBORNE."

Lady Tichborne herself had failed to recognize in the letters from Wagga-Wagga the handwriting of her son. Mr. Gosford was equally unsuccessful in detecting any similarity between this note and the familiar hand, either in penmanship or style, nor had he ever known Mr. Tichborne sign his surname with a small initial letter. The party, therefore, left the house, after warning the landlord that he had for a guest an "impostor and a rogue."

Still, the idea that his old friend, who had made him

his executor and the depositary of his most secret wishes, could have come back again alive, however changed, was too pleasing to be abandoned by Mr. Gosford, even on such evidence. Accordingly, by arrangement with an attorney named Holmes, he went down again, and, more successful this time, had conversation with the stranger who called himself Roger Tichborne. But neither the features, nor the voice, nor the manner of the man brought back to him any recollection. Mr. Gosford has related, at length, the story of that interview, and has told us how he found this man totally ignorant of all their past associations, and unable to give any intelligible account of Roger Tichborne's career, his habits, family, or connections, with all which things Mr. Gosford was intimately acquainted.

Meanwhile, the Dowager Lady Tichborne had learned that the long-expected Roger had arrived in England; and she wrote letters imploring him to come to her, to which the Claimant, who had not been in London more than a fortnight, answered that he was "prevented by circumstances!" and added, "Oh! Do come over and see me at once." On the very day after the date of this letter, however, he arrived in Paris, accompanied by a man whose acquaintance he had casually made in a billiard room, and by Mr. Holmes, the attorney, to whom his casual acquaintance had introduced him. The party put up at an hotel in the Rue St. Honoré. They knew Lady Tichborne's address in the Place de la Madeleine, scarcely five minutes' walk from their hotel; but they had arrived somewhat late, and "Sir Roger" paid no visit to his mother that day.

For some months past Lady Tichborne had cautiously confided to friends something of the facts of the Sydney and Wagga-Wagga correspondence. She had told her brother, Mr. Seymour, that Roger had been found, and

was coming home, but had refused to show him the letters or the portrait. To her solicitor, Mr. James Bowker, she was more communicative; and she gave him to read letters dated Wagga-Wagga, and signed, "Roger Charles Tichborne." Mr. James Bowker had not known Roger Tichborne, and did not know his handwriting, but, having carefully scrutinized the singular epistles, he pointed out to her that they were clearly the writing of an illiterate Englishman of the lower class; that the writer asked for money on no evidence of being entitled to any; and that he inquired, "How's Grandma?" when Roger Tichborne must have known that he had no grandmother. Mr. James Bowker was not aware that the writer had also sent remembrances to a non-existent "grandpa," but he told his client that there was not a sentence in the letter which was not open to observation. Lady Tichborne, however, was only angry at this want of faith, and after a short time, Mr. James Bowker discovered that the lady had no further need of his professional services. In like manner she appealed to Roger's cousin, and old schoolfellow, the Vicomte de Brimont; but the Vicomte proved equally cautious, and was accordingly dropped shortly after. When at last she learned that her Roger had actually arrived, and was staying at an hotel near by, she appealed to her spiritual adviser, the venerable Abbé Salis. But the Abbé Salis had told us that he was aware that she had, as Frenchmen say, *la tete malade*; and that this matter of her lost son's being still alive was with her a mania—*une idee fixe*. In vain she implored him "to go and recognize" one whom he had known so well, but the reverend gentleman had but one answer. "If this were Roger (he said) he would assuredly not have waited for me to go to him."

Thus deserted, the poor lady rose early the next

morning, and sent her Irish servant, John Coyne, to the hotel in the Rue St. Honoré with a pressing message. The story of the first meeting between mother and son, after fourteen years of painful separation, has now become familiar to most persons. John Coyne has told us how he went to the hotel to see "Sir Roger Tichborne," but was told he was not well; how his mistress, dissatisfied with that message, sent him again, whereupon "Sir Roger" came out of his bed-room and walked past him "slowly, and with his head down," bidding him, at the same time, go and tell his mamma that he was not able to come to her; and how his mistress, still more dissatisfied, then directed her servant "to take a cab immediately and fetch her son." Coyne has also related how he then went a third time, and found "Sir Roger," with his attorney and his casual acquaintance, sitting at breakfast, but was again unsuccessful. Then Coyne has told, with infinite gravity, how Lady Tichborne that afternoon went herself to the hotel, and was then permitted to see her son in a darkened chamber, and in the presence of his attorney and friend. "Sir Roger," said Coyne, "was lying on the bed, with his back turned to us, and his face to the wall," and he added that while he was in that position, his mistress leaned over and kissed Sir Roger on the mouth, observing, at the same time, that "he looked like his father, though his ears were like his uncle's." Then, "Sir Roger" having remarked that he was "nearly stifled," Lady Tichborne directed Coyne to "take off her son's coat and undo his braces," which duties the faithful domestic accomplished with some difficulty, while at the same time he "managed to pull him over as well as he could." Upon this, Mr. Holmes, solemnly standing up, addressed John Coyne in the words: "You are a witness that Lady Tichborne recognizes her son," and John Coyne having replied



"And so are you," the ceremony of recognition was complete.

Soon after this event, it became known to gossips, in the parlor of the Swan, that the Dowager Lady Tichborne had acknowledged that the stranger was indeed her lost son Roger; that she had determined to allow the repentant wanderer £1,000 a year; that he was going to take a house at Croydon, pending his entering into the possession of the Tichborne estates. Thereupon there was great joy in Alresford, for it seemed that Tichborne, which had been let to a mere stranger by the trustees of the late Sir Alfred's posthumous son—was to have a master again of the old race. The joy became frantic delight when it was known that "Mr. Taylor," throwing off his disguise and declaring himself as "Sir Roger Charles Tichborne," was about to visit the Swan once more.

There happened then to be living in Alresford a gentleman named Hopkins. He had been solicitor to the Tichborne family, but they had long ceased to employ him. He had also been a trustee of the Doughty estates, but had been compelled to resign that position, at which he had expressed much chagrin. Hopkins had an acquaintance named Baigent, at Winchester, an eccentric person, of an inquisitive turn. Both these personages began at this time to busy themselves greatly in the matter of the Tichborne Claimant, who, on his next visit to Alresford, was accordingly invited to stay at Mr. Hopkins's house. From that time Mr. Hopkins and Mr. Baigent become active partisans of the Claimant's cause. Hopkins had not been the solicitor of Roger Tichborne, but he had seen him occasionally from fifteen to twenty years previously; and he made an affidavit that "though he could not recall the expression of Roger Tichborne's features," he had no doubt, from

the knowledge which the Claimant had shown of the neighborhood of Tichborne, and of family matters, that he was the same person. All Alresford may, in fact, be said to have been converted ; the bells were rung on the Claimant's arrival there ; and Colonel Lushington, the then tenant of Tichborne House, invited the Australian stranger and his wife to stay with him there. Colonel Lushington had never seen Roger Tichborne, but he has explained that he was impressed by his visitor's knowledge of the old pictures on the walls, which, it will be remembered, Bogle had been sent by "Mr. Taylor" to reconnoiter. When the news came that "Sir Roger's wife," on a visit with her husband to Col. Lushington, had had a child baptized in the chapel at Tichborne, while Mr. Anthony Biddulph, another convert, and a remote connection of the Tichborne family, had become godfather, the bells of Alresford rang louder ; and few in that town would have been hardy enough to question the proposition that a mother must be held "to know her own son."

Still it was strange that "Sir Roger" went near none of his old friends. He had left Paris without an effort to see his former circle of acquaintances. Chatillon, his early tutor, had been brought by the Dowager there to see him ; but Chatillon had said, "Madame, this is not your son." Neither the Abbe Salis, nor Roger's dear old instructor, Father Lefèvre, nor Gossein, the faithful valet, who had played with him from childhood, and had known him well as a man, nor, indeed, any person in Paris who had been acquainted with Roger Tichborne, received a visit. In England the facts were the same. When at Alresford the stranger was invited to go over to Brookwood, and see Mrs. Greenwood, for whom Roger had so strong a regard ; but he pleaded a headache, and excused himself in a letter beginning "My

dear Cousing Kate." In short, to no one of the cousins, aunts, and uncles, with whom Roger had always been on affectionate terms, did "Sir Roger" go. When litigation was threatened, which it was known must cause heavy expense, ultimately to come out of the fortune of the fatherless child, it was proposed that the new-comer should meet all the Tichborne family at a general gathering; but it was of no avail. To do him justice, the Claimant did not shrink from writing several letters to those persons, who were startled, however, to find that he added the word "Bart." to his signature, while neither his style nor handwriting bore, in their judgment, the faintest resemblance to that of Roger. Mr. Danby Seymour, Roger's uncle, took the step of calling at Mr. Hopkins's when the Claimant was staying there, and taking with him William Bardon, an old servant of Sir James. But there was no recognition on either side. Finally—more than four months after the Claimant's arrival—Mr. and Mrs. Radcliffe obtained an interview with the Claimant, at Croydon, and with them was Mrs. Towneley. Mrs. Radcliffe, as the reader knows, was in her maiden days the Miss Kate Doughty, for love of whom Roger Tichborne had suffered so much; and the house of Mrs. Towneley, another cousin, had been one of Roger's homes. But "Sir Roger" was clearly unable to distinguish the two ladies; for he addressed Mrs. Towneley, whose name was Lucy, in the words, "How do you do, Kate?" while Mrs. Radcliffe he called "Lucy." All the parties present, except the Claimant, agree that he continued to converse under this erroneous impression of their identity, until asked by Mr. Radcliffe whether he was quite sure he was addressing his cousins by their right names.

Meanwhile, active measures were in preparation for those tedious legal proceedings which have occupied so

large a share of public attention. Mr. Holmes, and many others, were busy in procuring information, which may, or may not, have been, but which, undoubtedly, could have been, very useful in assisting imposture. The voluminous will of Roger Tichborne, setting forth a mass of particulars about the family property, was examined at Doctors' Commons. Then there were records of proceedings in the Probate Court and in Chancery, relating to the Tichborne estates, of which copies were procured. The Horse Guards furnished the indefatigable attorney with minute and precise statements of the movements of the Carabineers during Roger Tichborne's service, and of the dates of every leave of absence and return. Then the Dowager's attorney procured from Stonyhurst lists of the professors and officials during Roger's three years' study there; and, finally, the books of Lloyd's and the "Merchant Seamen's Register" were searched for information about the movements of the *Pauline*, *Bella*, and other vessels.

Coincident with these researches, there was a marked improvement in the Claimant's knowledge of the circumstances of what he alleged to be his own past life. There was no mention now of "the Sixty-sixth Blues," or of having been a private soldier; no denial, with or without an oath, of having been at Stonyhurst; no allusion to any other of the numerous statements he had made to Mr. Gibbes on those points. Then converts began to multiply, but not among the Tichborne family, or in any other circle that had known Roger Tichborne very intimately. Affidavits, however, increased in number. People related wonderful instances of things the Claimant reminded them of, and which had happened in the past. On the one hand, these facts were regarded as "genuine efforts of memory;" on the other, they were stigmatized as the result of an organized system of extracting infor-

mation from one person and playing it off upon another. Whether this latter imputation was just or unjust, it could not be denied that the Claimant's conduct afforded some justification for it. Bogle was still in his house, and it was certain that before attempting to win over any officer of Carabineers to his cause, he also took into his service a number of old sergeant-majors of the Carabineers. Besides these, he hired Carter, who had been the regimental servant of Mr. Tichborne, and allowed him to spend money freely among old comrades, and to bring them to the house at Croydon "to recognize their old officer." After this, several officers who had known Roger Tichborne were induced to make affidavits; but, as a rule, these witnesses did not so much depose to their recognition of the features as to their having come to the conclusion that the Claimant was Roger Tichborne from his being able to remind them of some occurrences connected with that young gentleman's military life. The bulk of the Claimant's supporters, it is true, were persons of humble rank and little intelligence; but a considerable number were, certainly, people of good education and of high station. The Claimant, they knew, was an illiterate person; but they were told that Roger Tichborne made blunders in grammar, which was true, but Lord Chief Justice Cockburn has justly remarked that they were the blunders of a foreigner, and not vulgarities habitual among the English lower classes. The Claimant's conversation and manners were not those of a gentleman, though they may be supposed to have been improving under circumstances and in society very different from those of Wagga-Wagga; but then, Mr. Baigent resolutely maintained that Roger's chief associates were stable-boys, and persons of like condition, which, though ridiculously incorrect, was not easy then to disprove.

At the end of July, 1867, there was a public examination of the Claimant in Chancery, at which, for the first time, he made generally known that famous account of his alleged wreck and escape in one of the boats of the *Bella*, with eight other persons, which, with some variations, he has since maintained. It was then, that in answer to questions he stated that he was not certain of the name of the vessel that picked him up, but was "under the impression that it was the *Osprey*." He also said that her captain's name was "Owen Lewis, or Lewis Owen," but he was "not certain," though he said that three months elapsed between the date of his being saved and his being landed in Melbourne, in July, 1854. Besides these, the most remarkable points in his examination were his statements that on the very next day after his arrival he was engaged by a Mr. William Foster, of Boisdale, an extensive farmer in Gippsland, to look after cattle; and that he henceforward lived in obscurity in Australia under the name of Thomas Castro. The name of Thomas Castro, he added, had occurred to him because during his travels in South America he had known a person so named at Melipilla, in Chili.

Mr. Gosford was also examined on that occasion with results which had an important influence on the progress of the great *cause célèbre*. Some time before that event that gentleman had been induced to have one more interview with the Claimant in the presence of two of his most influential supporters, who thereupon requested Mr. Gosford to test their *protégé* by asking him about some private matter between him and his friend Roger in the past. Thus challenged Mr. Gosford naturally bethought him of the sealed paper, in which Roger had recorded his intention of building a chapel or church at Tichborne, and dedicating it to the Virgin, in the event of his marrying his cousin within three years; and he

therefore requested the Claimant to declare, if he could what were the contents of a certain packet marked "private" which Roger left in his hands when he went away. Having obtained no definite answer, Mr. Gosford, for the sake of fairness, went a step further, and said that it recorded an intention "to carry out an arrangement at Tichborne in the event of his marrying a certain lady." Still there was no answer; and thereupon Mr. Gosford, declaring that the whole interview "was idle," left the place. The packet, unfortunately, was no longer in existence. Some years after Roger Tichborne's death appeared to be beyond all doubt Mr. Gosford had simply burnt it, regarding it as a document which it would be useless, and which he had no right to keep, and yet one which, on the other hand, he should not be justified in giving up to any living person. The fact of its being burnt he had for obvious reasons concealed; but being now asked on the subject he was compelled to state the circumstances.

It is remarkable that on the very morrow of that disclosure the Claimant for the first time made a statement to his supporter, Mr. Bulpett, as to the packet. It may be supposed that Mr. Bulpett and the Claimant's friend's generally were inclined to draw unfavorable inferences from his apparent ignorance of the contents of the packet. He now, however, declared that not ignorance of its contents but delicacy and forbearance towards Mrs. Radcliffe had alone prevented his answering Mr. Gosford's test question. Mr. Gosford, he said, was right. It did relate to "an arrangement to be carried out at Tichborne," but an arrangement of a very painful kind. Then it was that he wrote out the terrible charge against the lady whom Roger had loved so well—confessing, it is true, his own diabolical wickedness, but at the same time casting upon her the cruelest of imputa-

tions. This, he said, was what he had sealed up and given to Mr. Gosford. It does not appear to have occurred to Mr. Bulpett or Mr. Guildford Onslow, while lending aid and countenance to this disreputable business, that it was strange that Mr. Gosford should have challenged Roger Tichborne—if the Claimant were Roger Tichborne—to speak in the presence of others on a subject so disgraceful to himself and so injurious to the reputation of a lady; nor does he seem to have reflected that, if the matter was too delicate for the Claimant to answer, it was assuredly too delicate for Mr. Gosford to question upon it. Mr. Bulpett, the banker, however, put his initials solemnly to the document, and within a few months all Hampshire had whispered the wicked story. It is to be observed that during all this time no word had been spoken by the Claimant of his having confided to Mr. Gosford a vow to build a church. Four years later, when under examination, he was asked whether he had ever left any other private document with Mr. Gosford, and he answered, "I think not." Then it was that counsel produced the copy of the vow to build the church in Roger Tichborne's hand, which he had fortunately given to his cousin on the sorrowful day of their last parting; and, finally, there was found and read aloud the letter of Roger Tichborne to Mr. Gosford, dated January 17th, 1852, in which occur the precious words, "I have written out my will and left it with Mr. Slaughter; the only thing which I have left out is about the church, which I will only build under the circumstances which I have left with you in writing." Happily these facts render it unnecessary to enter upon the question whether this story was not wholly irreconcilable, both with itself and with the ascertained dates and facts in Roger Tichborne's career.

The great estates of Tichborne were not likely to be left undefended either by the trustees or by the family, who, with the exception of the Dowager Lady Tichborne, had, with one accord, pronounced the Claimant an impostor. Accordingly very soon after his arrival in England a gentleman named Mackenzie was dispatched to Australia to make inquiries.

Mr. Mackenzie visited Melbourne, Sydney, and Wagga-Wagga, and up to a certain time was singularly successful in tracing backwards the career of Thomas Castro. He discovered that, some months before the Dowager's advertisement for her son had appeared, and Mr. Gibbes' client had set up his claim, the slaughterman of Wagga-Wagga had married an Irish servant girl, named Bryant, who had signed the marriage register with a cross. He also found that the marriage was celebrated, not by a Roman Catholic priest, but by a Wesleyan minister. Searching further, he found out that immediately after the date of the arrival of a letter from the Dowager, informing Mr. Gibbes that her son was a Roman Catholic, Thomas Castro and Mary Anne Bryant had again gone through the ceremony of marriage in those names, and on this occasion the wedding was celebrated in a Roman Catholic chapel. By applying to Mr. Gibbes, Mr. Mackenzie then discovered that the Claimant, before leaving Australia, had given instructions for a will, which was subsequently drawn up and executed by him, in which he pretended to dispose of the Tichborne estates, and described properties in various counties, all of which were purely fictitious. The Tichborne family had not, and never had, any such estates as were there elaborately set forth, nor did any such estates exist; and the will contained no bequest, nor indeed any allusion to a solitary member of Roger's family except his

mother, whom it described as Lady "Hannah Frances Tichborne," though her Christian names were, in fact, Henriette Félicité." Mr. Gibbes explained that it was the knowledge which this document seemed to display of the Tichborne estates and family which induced him to advance money, and that the Dowager Lady Tichborne's letters being merely signed "H. F. Tichborne," he had inserted the Christian names, "Hannah Frances," on the authority of his client. Lastly, Mr. Mackenzie learnt that there had been a butcher in Wagga-Wagga named Schottler, and that Higgins's slaughterman, known as Tom Castro, had once told some one that he had known Schottler's family, and lived very near their house when he was a boy. Schottler had disappeared, but he was believed to have originally come from London. This information was slight, but it appeared to the shrewd Mr. Mackenzie to be valuable. If the Schottlers were known to Tom Castro as neighbors when he was a boy in London, it would seem to be only necessary to find the Schottler family in order to discover who the Claimant to the Tichborne estates really was.

London, it is true, is a large place, but, on the other hand, "Schottler" is not so common a name as Smith or Jones. When these important facts were forwarded to the solicitor to the defendants in the Chancery suits, he obtained old directories of London, and discovered that there was one Schottler, who had kept a public house called The Ship and Punchbowl, in High Street, Wapping. In that direction, therefore, inquiries were instituted. The Schottlers had, it was found, gone and left no trace, but it was easy to instruct Detective Whicher to inquire after old neighbors, to show them a portrait of the Claimant, and to ask if any one in that locality recognized the features.

At last the gentleman prosecuting these inquiries

found himself in the Globe public-house near by, the landlady of which hostelry at once declared the *carte de visite* to be a portrait of a mysterious individual of huge bulk who had visited her on the night of the previous Christmas Day, stayed an hour in her parlor, and made numerous inquiries after old inhabitants of Wapping. His inquiries included the Schottlers, and he had particularly wanted the address of the family of the late Mr. George Orton, a butcher, in the High Street, who answered the description of an old "neighbor of the Schottlers." The Christmas Day referred to was the very day of the Claimant's arrival in England, and the landlady of the Globe was positive that the portrait represented her visitor, whoever he might have been. Moreover, she informed the gentleman that, struck by his inquiries after the Ortons, she had scanned her mysterious visitor's features closely, and observed, "Why you must be an Orton, you are very like the old gentleman."

Three daughters of old George Orton were then applied to, but they declared that the portrait had no resemblance to any brother of theirs. Neighbors, however, had perceived that these persons, who had been extremely poor, had suddenly shown signs of greatly improved circumstances. Further inquiry led to the discovery that they had a brother named Charles, "a humpbacked man," who had been a butcher in a small way in partnership with a Mr. Woodgate, in Hermitage street, Wapping. He had recently dissolved partnership rather suddenly, but he had previously confided to Mr. Woodgate the curious information that he had a brother just come home from Australia who was entitled to great property, and who had promised him an allowance of "£5 a month," and £2,000 "when he got his estates." When, after some trouble, Charles Orton was discovered, he showed

signs of being disposed to explain the mystery "if the solicitors" would promptly "make it worth his while," but in the very midst of the inquiry he suddenly vanished from the neighborhood, and for a long while all trace of him was lost.

Meanwhile, the Claimant had, by some mysterious means, instantly become aware that these inquiries were in progress, for he wrote at this period to his confidential friend Rous, the landlord of the Swan, as follows:—"We find the other side very busy with another pair of sisters for me. They say I was born in Waping. I never remember having been there, but Mr. Holmes tells me it a very respectiabel part of London." Shortly afterwards two out of the three daughters of old Mr. Orton made affidavit that the Claimant was not their brother, nor any relation of theirs; the other sister and Charles Orton, however, made no affidavit. Four years later the Claimant confessed that he was, after all, the mysterious visitor at the Globe public-house on that Christmas-eve; that he shortly afterwards entered into secret correspondence and transactions with the Orton family; that he gave the sisters money whenever they wrote to say they were in want of any; and that after the period when Charles Orton was solicited to give information to "the other side," he allowed him £5 a month—Charles Orton, who was then in concealment, being addressed in their correspondence by the assumed name of "Brand." The Claimant's explanation of these relations with the Orton family, which he at first denied, was that their brother, Arthur Orton, had been a great friend of his for many years, and in various parts of Australia, and that hence he was desirous of assisting his family. At one time he said that his object was to ascertain if his friend, Arthur Orton, had arrived in England; at another he stated, on oath, that when he sailed from Australia he

left Arthur Orton there. The solicitors for the defendants in the great Chancery suit, however, did not hesitate to declare their conviction that the pretended Roger Tichborne was no other than Arthur Orton, youngest son of the late George Orton, butcher, of High street, Wapping; that his visit to Wapping on the very night of his arrival was prompted by curiosity to know the position of his family, of whom he had not heard for some years; and that his stealthy transactions with the three sisters, and with the brother of Arthur Orton, had no object but that of furnishing them with an inducement to keep the dangerous secret of his true name and origin.

Meanwhile no token of these charges reached the ears of the Dowager Lady Tichborne; but it is obvious that they could not long be concealed. Possibly, for this reason, the Claimant at last apprised her that "the other side" were trying to make out that he was "not himself, but a person of the name of 'Horton.'" He was careful, however, to add that he had been seen by people who had known the man referred to, and that these had declared that he was not the same. Whether the Dowager's faith would have been shaken if her supposed son had confessed that while she was anxiously expecting the wanderer so long mourned for he was making in Wapping minute inquiries not for "Hortons" but for "Ortons," who shall say? It is certain that at the very moment of writing this letter her correspondent was secretly allowing money to the sisters of the same man; while he was keeping the brother, who had shown a tendency to give information to "the other side," in concealment far away from his old Wapping haunts, and regularly sending him £5 per month. It has been said that all this while he pretended to his friend, Mr. Rous, to know nothing about Wapping, which he spelt "Waping," except that his attorney had in-

formed him that it was "a very respectiabel place." It may, therefore, be assumed that he was not more communicative with Lady Tichborne. Perhaps, however, the caution was needless.

The poor old lady had lived for some time in the house at Croydon with her supposed son and his wife, who appears by a letter of the Claimant to have spent much of her time in "fighting with the cook." A servant-maid in that household has told how she heard the Dowager sometimes say, "They must have been savages out in Australia to change my son so, and make him so rough;" and it has been hinted that the poor lady was troubled with doubts about his identity. But the evidence that her faith was proof against all assaults is overwhelming. It had never been alleged that her failings went beyond eccentric self-will and irritability of temper; and her faults as a mother, great as they were, were summed up in an excessive solicitude, which amounted in appearance almost to a disease of the mind. Could it be true that this lady was consciously conniving at an attempt to plunder the child of her "beloved son Alfred;" and to place an illiterate Australian butcher at the head of the ancient Tichborne family? The project, if this man were an impostor, was too wild to be entertained, save in a brain so disordered that it well might justify a more charitable assumption. Some have lent an ear to the cruel suggestions that now her husband and her sons were dead, and there was a litte infant of whom she knew nothing, whose frail life alone stood in the way of the succession of remote connections, Lady Tichborne may have conceived the idea of a sort of partnership in a gigantic scheme of fraud and imposition. It is true that it would be easy to find arguments and facts in support of these suggestions. There was, for example, her fixed idea that her "son" in Wagga-

Wagga had only to come to her and be recognized, and forthwith the estates would be his. There is her allusion to the necessity of guarding against the opposition of "collaterals," and among the Claimant's letters to her are allusions to the fine residence which she should have—a part of the Tichborne property—as soon as he got "his estates." But people who have listened to these notions must have forgotten the numerous manifestations in those letters to Lady Tichborne of anxiety to conceal from her any circumstances calculated to cast doubt upon his identity, not to speak of the affectation of piety in such phrases as "May God in His great mercy forgive these poor pergered sailors," and again, "If I lose my estates I shall be rewarded in Heaven," which are no less inconsistent with the supposition of a mutual consciousness of fraud and deception. Above all they must have forgotten that her crazy search after a lost son began while her own husband was in possession; and that it was while he lay dead, and her "beloved Alfred" was installed at Tichborne with his newly-married wife, that she inserted those dangerous advertisements, virtually soliciting impostors from all parts of the world to come forward and challenge the rights of her own child—perhaps to ruin him with tedious litigation. The advertisements, while Sir Alfred still lived, were but the continuation of the dreams which had been nourished by the tramping sailors whom her husband had sought in vain to keep out of Tichborne park; the welcoming home of the man who adopted all the tramping sailors' heartless fictions was but the final realization of that unshaken faith that had possessed her mind for thirteen long years.

Thus it was that friends and relatives reasoned with her, and even told her that her supposed son had been

discovered to be the son of Orton, a butcher, at Wapping; but in vain. Those who would not believe and aid her in restoring her "dear son Roger" to his birth-right were enemies, against whom her doors were quickly shut. There is something terrible in the story of the poor lady's situation, standing as she did alone, and in opposition to the whole of the large circle of relatives of Roger Tichborne, who had known him so well. The Abbé Toursel, an old friend of Sir James and Lady Tichborne, has told, in the witness-box, an affecting story of how, one day, shortly before her death, she came to him at his house in London, all alone, and looking so pale, and wasted, and careworn, that his heart was touched. She had, it was true, complaints to make of her son. She said that he squandered her substance; the expense was torture to her, and she had tried to put him on a fixed allowance. She was then indeed in hopeless embarrassment. Only fourteen months elapsed since the supposed son had come home, and since she had promised him a thousand a year for personal expenses. She was, at that period, certainly in possession of an income of more than twice that amount, but the profligate waste of the Croydon household, and the enormous expense of the system of getting up "evidence" and prosecuting law proceedings, had, in that short space of time, absorbed all her means. She was in the hands of rogues and disreputable money lenders, and was absolutely borrowing funds at the interest of fifty per cent. The old fable of the pelican could scarcely match her self-inflicted pain and privation. Concerning all this, however, she confided very little to her friend, but she said she was very uneasy, that she could not live in the house at Croydon with her son by reason of the multitude of strange and noisy people who haunted it, with discharged private soldiers living in

the attics and the basement. The old lady being more familiar with French than English would probably have but a dim conception of their talk and their proceedings, but she was conscious of the fumes of tobacco and strong drink, and the tumult distressed her. Thus she was friendless and wretched, and in sore need of guidance and consolation. Yet she rejected the proffered aid of the venerable Abbé, who exhorted her to have a meeting of her relations, and there subject her supposed son to rational tests of his identity. The Abbé Toursel even offered to preside at such meeting, and see that it was conducted with fairness. But all in vain. The poor, weak, trembling, friendless woman clung to her fond belief. "No, no, he is Roger. They would quarrel, and want to deprive me of him." This was the only answer he could get as he followed her to the threshold of the door, saw her feebly walking in the bleak March wind, and watched her till she turned a corner, fearing that she would drop exhausted to the ground.

Only a few days later—on the 12th of March, 1868—the Dowager Lady Tichborne was found by a servant dead in a chair, and with no relative or friend at hand, in a hotel near Portman Square, where she had sought and found a shelter.

Amidst much that was vague in the Claimant's account of his past life, there were, at all events, two statements of a precise and definite character. These were, first, that he had been at Melipilla, in Chili, and had there known intimately a man named Thomas Castro, whose name he had afterwards assumed; and secondly, that in 1854, he had been engaged as herdsman to Mr. William Foster, of Boisdale, in Gippsland, Australia. If he were an imposter, these statements were undoubtedly imprudent. But they served the

purpose of establishing the identity of his career with that of the man whom he claimed to be, for Roger Tichborne had, undoubtedly, traveled in Chili; and, according at least to the tramping sailors' story, embodied in the Dowager's advertisements, he had been carried thence to Australia. The importance attached by his supporters to these apparent tokens of identity sufficiently explains the Claimant's explicitness on these points. Melipilla is a long way off; and Boisdale is still further. It may have been supposed that witnesses could not be brought from so far; but vast interests were at stake, and the defendant in the Chancery suit speedily applied for Commissions to go out to South America and Australia to collect information regarding the Claimant's past history. The proposition was strenuously opposed as vexatious, and designed merely to create delay, but the Court granted the application. Then the Claimant asked for an adjournment on the ground that he intended to go out and confront the Melipilla folks, including his intimate friend Don Tomas Castro, before the Commission; and also to accompany it to Australia. The postponement was granted, a large sum was raised to defray his expenses, and he finally started with the Commission, accompanied by counsel and solicitors, bound for Valparaiso and Melipilla, and finally for Victoria and New South Wales. When the vessel, however, arrived at Rio, the Claimant went ashore, declaring that he preferred to go thence to Melipilla overland. But he never presented himself at that place, and finally the Commission proceeded to examine witnesses and to record their testimony, which thus became part of the evidence in the suit. The Claimant had, in fact, re-embarked at Rio for England, having abandoned the whole project; for which strange conduct he made various and conflicting excuses.

Even before he had started, circumstances had occurred which had induced some of his supporters to express doubts whether he would ever go to Melipilla. The facts were these. When the going out of the Commission had become inevitable, the Claimant had written a letter to his "esteemed friend, Don Tomas Castro," reminding him of past acquaintance in 1853, sending kind remembrances to a number of friends, and altogether mentioning at least sixteen persons with Spanish names whom he had known there. The purpose of the letter was to inform Don Tomas that he had returned to England; was claiming "magnificent lands," and, in brief, to prepare his whole acquaintances to befriend him there. This letter was answered by Castro, through his son Pedro, with numerous good wishes and much gossip about Melipilla and what had become of the old circle. But to the astonishment and dismay of the Claimant's attorney, Mr. Holmes, Pedro Castro reminded his old correspondent that when among them he had gone by the name of Arthur Orton. A Melipilla lady named Ahumada then sent a portion of a lock of hair which the Claimant acknowledged as his own hair, and thanked her for. But this lady declared that she had cut the lock from the head of an English lad named Arthur Orton; and the Claimant thereupon said that he must have been mistaken in thanking her and acknowledging it as his. In the town of Melipilla—sixty or seventy miles inland from Valparaiso—every one of the sixteen or seventeen persons mentioned by the Claimant as old acquaintances—except those who were dead or gone away—came before the Commission, and were examined. They proved to have substantially but one tale to tell. They said they never knew any one of the name of Tichborne. Melipilla is a remote little town, far off the great high road, and the only

English person, except an English doctor, there established, who had ever sojourned there was a sailor lad, who, not in 1853, but in 1849, came to them destitute; was kindly treated; picked up Spanish enough to converse in an illiterate way; said his name was Arthur, and was always called Arthur by them; declared his father was "a butcher named Orton, who served the Queen;" and said he had been sent to sea to cure St. Vitus's Dance, but had been ill-used by the captain, and ran away from his ship at Valparaiso. This lad, they stated, sojourned in Melipilla eighteen months, and finally went back to Valparaiso and re-embarked for England. Don Tomaso Castro, the doctor's wife, and others, declared they recognized the features of this lad in the portrait of the Claimant; and being shown two daguerreotype portraits of Roger Tichborne, taken in Chili when he was there, said that the features were not like those of any person they had ever known. Searches were then made in the record's of the consul's office at Valparaiso, from which it resulted that a sailor named Arthur Orton did desert from the English ship *Ocean* in that port at the very date mentioned, and did re-embark, though under the name of "Joseph M. Orton," about eighteen months later.

Boisdale, in Australia, whither the Commission then repaired, is many thousands of miles from South America, but here similar discoveries were made. Mr. William Foster, the extensive cattle farmer, was dead, but the widow still managed his large property. In reference to the Claimant's statement that in July, 1854, the very day after he was landed by the vessel which he believed was named the *Osprey*, at Melbourne, he was engaged by Mr. William Foster, and went with him at once to Gippsland, under the assumed name of Thomas Castro, the lady declared that her husband did not settle at

Boisdale, or have anything to do with that property till two years later than that date, and that they never had any herdsman named Thomas Castro. The ledgers and other account books of Mr. Foster were then examined, but no mention of any Castro, either in 1854 or at any other time, could be found. On the other hand, there were numerous entries, extending over the two years 1857 and 1858, of wages paid and rations served out to a herdsman named Arthur Orton, whom the lady perfectly well remembered, and who had come to them from Hobart Town.

All these discoveries were confirmed by the registers of shipping, which showed that Arthur Orton embarked for Valparaiso in 1848, re-embarked for London in 1851, and sailed again for Hobart Town in the following year. But there were other significant circumstances. The ship in which Arthur Orton had returned from Valparaiso was called the *Jessie Miller*, which was the very name which the Claimant, in his solemn declaration, prepared by Mr. Gibbes, gave as the name of the vessel in which he came out to Australia. In the same document he had stated the date of his sailing from England as the "28th of November, 1852," and this was now discovered to be the very day, month, and year, on which Arthur Orton embarked in the vessel bound for Hobart Town. Mr. Foster's widow had specimens of Arthur Orton's writing, and other mementoes of his two years' service among them, and she unhesitatingly identified a portrait of the Claimant as that of the same man. Numerous other important discoveries were made in Australia, and, among other witnesses, a farmer named Hopwood deposed, that he had known Arthur Orton at Boisdale, under that name, and again, at Wagga-Wagga, under his assumed name of Thomas Castro. At Wagga-Wagga, the will executed by the Claimant, and

already referred to, was produced, and it was found, that amidst all its fictitious names, and imaginary Tichborne estates, it appointed as trustees two gentlemen residing in Dorsetshire, England, who have since been discovered to have been intimate friends of old Mr. Orton, the butcher. The testimony on the Claimant's behalf, before the Commission, threw but little light. It consisted, chiefly, of vague stories of his having spoken, when in Australia, of being entitled to large possessions, and of having been an officer in the army, and stationed in Ireland. Such testimony could, of course, have little weight against the statements of the Claimant, in writing, made just before embarking at Sydney, with a view of satisfying capitalists of his identity, and betraying total ignorance of Roger Tichborne's military life.

It was while the Claimant was absent on his abortive journey to Melipilla that Charles Orton, the brother of Arthur, finally called upon the solicitors for "the other side," and volunteered to give information. In the presence of Lord Arundell and other witnesses, this man then stated that the Claimant of the Tichborne estates was his brother Arthur, that he had been induced by him to change his name to Brand, and to remain in concealment, that in return the Claimant had allowed him £5 per month; but that since his departure for Chili the allowance had ceased. Letters of Charles Orton to the Claimant's wife, and asking whether "Sir Roger Tichborne, before he went away, left anything for a party of the name of Brand," have been found and published. In the face of the evidence, the Claimant has since acknowledged that he did correspond with Charles, under the name of Brand, and did allow him that monthly sum.

Under these circumstances the Claimant's attorney, Mr. Holmes, finally withdrew from the case, and the

county gentlemen, who, relying in great measure on Lady Tichborne's recognition and the numerous affidavits that had been made, had supported the Claimant, held a meeting at the Swan, at Alresford, at which, among other documents, certain mysterious letters to the Orton sisters were produced. These letters were signed, "W. H. Stephens," and they contained inquiries after the Orton family and also after Miss Mary Anne Loader, who was an old sweetheart of Arthur Orton's, long resident in Wapping. They inclosed as portraits of Arthur Orton's wife and child, certain *carte-de-visite* likenesses which were clearly portraits of the Claimant's wife and child; and though they purported to be written by "W. H. Stephens," a friend of Arthur Orton, just arrived from Australia, it was suspected that the letters—which were evidently in a feigned hand—were really written by the Claimant. They manifested that desire for information about Wapping folks, and particularly the Ortons, which the Claimant was known to have exhibited on more occasions than one; and they indicated a wish to get this information by a ruse, and without permitting the writer to be seen. But the correspondence showed that the sisters of Orton had discovered, or at least believed that they had discovered, that the writer was in truth their brother Arthur. The Claimant, however, being called in and questioned, solemnly affirmed that the letters were "forgeries," designed by his enemies to "ruin his cause." Nor was it till he was pressed in cross-examination, three years later, that he reluctantly confessed that his charges of forgery were false; and that in fact he and no one else, had written the Stephens' letters. Among our facsimiles of autographs the reader will find a letter signed Arthur Orton, and dated Wagga-Wagga, N. S. W., June 3rd, 1866, which was forwarded to the Orton sisters by

the Claimant, at the same time, manifestly with a view to induce them to confide, by way of letter, in the fictitious Stephens. It may be presumed that the writing was expected to be recognized by them as an improved specimen from the same hand that penned the letter from "Torkeye" to Miss Loader (also among our facsimiles) fourteen years before; and it will be observed that it bears beneath the signature the same peculiar private mark. The reader has in those facsimiles the means of judging for himself whether that letter is not identical in handwriting with the letter beginning "My dear Mama," dated "Sydney, July 24th, '66," and signed "Roger Charles Tichborne." These, however, were later disclosures. The Claimant's solemn assurances did not convince all his supporters at the meeting at the Swan, but they satisfied some; and funds were still found for prosecuting the Chancery suit, which finally resulted in that great trial at Common Law that filled so large a space in the public journals.

The suit was technically an action for the purpose of ejecting Col. Lushington from Tichborne House, which had been let to him. Col. Lushington was then a supporter of the Claimant, and had not the least objection to be ejected. But the action at once raised the question whether the Claimant had a right to eject him. Of course that depended on whether he was, or was not, identical with the young man who was so long believed to have perished in the *Bella*, and accordingly this was the issue that the jury had to try.

The case of the Defendants had been prepared with great labor and expense by Mr. Frederick Bowker, of Winchester, the solicitor to the family; while the Claimant's cause was undertaken by the respectable firm of Baxter, Rose, and Norton. For the Claimant's side Mr. Serjeant Ballantine and Mr. Giffard had been

retained; on the side of the Defendants was Sir John Coleridge, then Solicitor General, supported by Mr. Hawkins. It was on Thursday, the 11th of May, 1871, that Sergeant Ballatine rose to address the jury; but owing to frequent adjournments, it was not until the 6th of March, 1872, that the trial was concluded—the proceedings having extended to 103 days. On the Claimant's side a large number of witnesses were examined, many being persons of respectability, while some were of high station. The military witnesses were very numerous; and among them were five of Roger Tichborne's old brother officers, the rest being sergeants, corporals, and privates. There were Australian witnesses, and medical witnesses, old servants, and tenants of the Tichborne family, and numerous other persons. With the exception of two remote connections, however no members of the numerous families of Tichborne and Seymour presented themselves to support the Plaintiff's claims; and even the two gentlemen referred to admitted that their acquaintance with Roger was slight, and that it was in his youth; and finally that they had not recognized the features of the Claimant, but had merely inferred his identity from some circumstances he had been able to mention. The same observation, indeed, applied to a very large number of the witnesses. The plaintiff's case was almost entirely unsupported by documentary evidence, and it rested in fact chiefly on the impressions or the memory of witnesses, or on their conclusions drawn from circumstances which, when they were inquired into, in cross-examination, proved to be altogether insufficient.

The cross-examination of the Claimant himself, however, was really the turning point of the civil trial. It extended over twenty-seven days, and embraced the whole history of Roger Tichborne's life, his alleged

rescue and carrying to Melbourne, the life of the Claimant in Australia, and his subsequent proceedings since his return. Besides this, matters connected with the Orton case were inquired into. The drift of much of the questioning of Sir John Coleridge was necessarily not apparent at the time, nor was it known to the public to what extent the Claimant had betrayed ignorance of the career, the habits, and the connections of the man he claimed to be. Much, however, that was calculated to alarm supporters was elicited. The Claimant was compelled to admit that he had no confirmation to offer of his strange story of the rescue, and that he could produce no survivor of the *Osprey* nor any one of the crew of the *Bella* alleged to have been rescued with him. The mere existence of such a vessel was not evidenced by any shipping register, or gazette, or Custom House record. It was moreover admitted that he had changed his story—had for a whole year given up the *Osprey*, and said the vessel was the *Themis*, and finally returned to the *Osprey* again. All the strange circumstances of the Wagga-Wagga will, the Gibbes and Cubitt correspondence, the furtive transactions with the Orton family, the curious revelations of the commissions in South America and Australia, were acknowledged, and either left unexplained or explained in a way which was evasive, inconsistent, and contradictory. His accounts of his relations with Arthur Orton were also vague, and his attempts to support his assertion that Castro and Orton were not one and the same, but different persons, were unsatisfactory, while, by his own confession, his habitual associates in Australia had been highway robbers and other persons of the vilest class. With regard to his life in Paris he admitted that his mind was "a blank," and he confessed that he could not read a line of Roger Tichborne's letters in French. He gave an-



HON. SIR J. MELLOR, KNT.
(JUSTICE OF THE QUEEN'S BENCH.)





swers which evidenced gross ignorance on all the matters which Roger Tichborne's letters and other evidence showed that he had studied. He said he did not think Euclid was connected with mathematics, though Roger Tichborne had passed an examination in Euclid; that he believed that a copy of Virgil handed to him was "in Greek," though Roger had made considerable progress in the study of Latin. He was compelled again and again to admit that statements he had deliberately made were absolutely false. When questioned with regard to that most impressive of all episodes in Roger's life, his love for his cousin, he showed himself unacquainted not merely with precise dates but with the broad outline of the story and the order of events. His answers on these matters were again confused, and wholly irreconcilable. Yet the Solicitor-General persisting for good reasons in interrogating him on the slanderous story of the sealed packet, he was compelled to repeat in Court, though with considerable variations, what he had long ago caused to be bruited abroad. Mrs., now Lady, Radcliffe, by her own wish, sat in Court beside her husband, confronting the false witness on that occasion; and they had the satisfaction of hearing him convicted out of his own mouth, and by the damnable evidence of documents of undisputed authenticity, of a deliberate series of abominable inventions, having the two-fold object of punishing the lady whom Roger loved so deeply, and of extricating himself from the humiliating position of being obliged to confess to his friends that he had been not merely unwilling, but unable, to answer Mr. Gosford's test question. It was during the course of this famous trial that the pocket-book left behind by the claimant at Wagga-Wagga was brought to England by the gentleman who had discovered it. It was found to contain what ap-

peared to be early attempts at Tichborne signatures, in the form "Rodger Charles Tichborne," besides such entries as "R. C. T., Bart., Tichborne Hall, Surrey. England, G. B.;" and among numerous other curious memoranda in the Claimant's own handwriting was the name and address, in full, of Arthur Orton's old sweetheart, at Wapping—the "respectiabel place" of which he had assured his supporters in England that he had not the slightest knowledge. The exposure of Mr. Baigent's unscrupulous partisanship by Mr. Hawkins, and the eloquent and argumentative address to the jury by Sir John Coleridge, will be long remembered. At its conclusion a few family witnesses, including Lady Radcliffe were heard, who deposed, among many other matters, to the famous tattoo marks on Roger's arm; and, finally the jury declared that they were satisfied. Then the Claimant's advisers, to avoid the inevitable verdict for their opponents, elected to be non-suited—that is to say, to drop their action. But, notwithstanding these tactics, Lord Chief Justice Bovill, under his warrant, immediately committed the Claimant to Newgate on a charge of willful and corrupt perjury.

Thus the great Tichborne case had entirely broken down; and the interest of the infant, Sir Alfred Joseph Tichborne, had been successfully defended, at a cost however, of considerably over one hundred thousand pounds. Practically, all hope of resuscitating the Claimant's pretensions was now at an end; but there were still powerful persons who had staked their reputation for common sense on the truth of his wild story, and there were others who, like Mr. Guildford Onslow, M. P., had gambled heavily on the chances of his success. That gentleman stood alone in his persevering efforts to give color and support to the slanders upon Lady Radcliffe and the long-exploded story of the



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"sealed packet," but though the Claimant had been heard to confess to falsehood and calumny, and to decline to give particulars of his admitted association in Australia with horse-stealers, murderers, and highway robbers, on the ground that to do so "might render him liable to a criminal prosecution," his most enthusiastic partisans had not entirely withdrawn their countenance. Accordingly, after a few weeks' delay, the Claimant was released from Newgate on bail in the sum of £10,000—his sureties being Earl Rivers, Mr. Guildford Onslow, M. P., Mr. Whalley, M. P., and Mr. Alban Attwood, a medical man, residing at Bayswater.

Then began that systematic agitation on the Claimant's behalf, and those public appeals for subscriptions, which were so remarkable a feature of the thirteen months' interval between the civil and the Criminal trial. The Tichborne Romance, as it was called, had made the name of the Claimant famous; and sight-seers throughout the kingdom were anxious to get a glimpse of "Sir Roger." It was true his case had entirely broken down, but the multitude were struck by the fact that he could still appear on platforms with excitable members of Parliament to speak for him, and could even find a lord to be his surety. It was not every one who in reading the long cross-examination of the Claimant had been able to see the significance of the admissions which he was compelled to make; and owing to the Claimant's counsel stopping the case on the hint of the jury, the other side of the story had not really been heard. It was curious that this fact was made an argument in the Claimant's favor. "Why," asked his friends, "did the jury stop the case before they had heard all the evidence?" They forgot that the jury had listened patiently to every one of the witnesses on the Claimant's side, and that although they had declared themselves satisfied, the case must

have continued if the Claimant's advisers had not voluntarily relinquished the struggle.

Meanwhile, the propagandism continued until there was hardly a town in the kingdom in which Sir Roger Charles Tichborne, Bart., had not appeared on platforms and addressed crowded meetings; while Mr. Guildford Onslow and Mr. Whalley were generally present to deliver their foolish and inflammatory harangues. At theaters and music halls, at pigeon matches and open air *fêtes*, the Claimant was perseveringly exhibited; and while the other side preserved a decorous silence, the public never ceased to hear the tale of his imaginary wrongs. A journal was actually started, entitled *The Tichborne Gazette*, the sole function of which was to excite the public mind still further; and in the newspapers appeared from time to time long lists of subscribers to the Tichborne Defense Fund. It will be remembered that the unexampled system of creating prejudice with regard to a great trial still pending was permitted to continue long after the criminal trial had commenced. There had been proceedings, it is true, for contempt against the Claimant and his supporters, Mr. Onslow, Mr. Whalley, and Mr. Skipworth, and fine and imprisonment were inflicted; but the agitation continued, violent attacks were made upon witnesses, and even upon the judges then engaged in trying the case, and at length the Court was compelled peremptorily to forbid all appearances of the Claimant at public meetings.

The great "Trial at Bar," presided over by Sir Alexander Cockburn, Lord Chief Justice of the Queen's Bench, Mr. Justice Mellor, and Mr. Justice Lush, commenced on the 23rd of April, 1873, and ended on the 28th of February, 1874—a period of a little over ten months. On the side of the Crown were Mr. Hawkins and Mr. Sergeant Parry; on that of the defendant, Dr. Kenealy





HENRY HAWKINS, ESQ., Q.C.
(LEADING COUNSEL FOR THE CROWN.)

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and Mr. MacMahon, M. P. The pomp and ceremony with which the proceedings were thus conducted was inevitable, for it is only a trial at Bar before three judges that can be continued without regard to the ordinary periods of sessions or legal terms. But these stately accessories necessarily impressed the mind of the populace, and the daily arrival and departure of the Claimant, in the carriage provided for him by his supporters, were witnessed by thousands of persons, shouting lustily for "Sir Roger," while the object of their attentions, bowing to right and left, gracefully acknowledged these tokens of unabated popularity.

The leading incidents in the great trial which has occupied judge, jury, and counsel for just 188 days are fresh in the memory of the public. On the side of the prosecution 212 witnesses gave their testimony; but the documentary evidence, including the enormous mass of Roger Tichborne's letters, so valuable as exhibiting the character, the pursuits, the thoughts, and feelings of the writer, were scarcely less important. The entire Tichborne and Seymour families may be said to have given their testimony against the Defendant. Unhappily, Lady Doughty had passed away from the troubled scene since the date of the last trial; but she had been examined and cross-examined on her death-bed, and had then repeated the evidence which she gave on the previous occasion, and declared that the Claimant was an impostor. Lady Radcliffe again appeared in the witness box, and told her simple story, confirmed as it was in all important particulars by the correspondence and other records. Old Paris friends and acquaintances were unanimous. Father Fefèvre and the venerable Abbé Salis, Chatillon, the tutor, and his wife, and numerous others declared that this man was not Roger Tichborne, and exposed his ignorance both of them and their past

transactions. When questioned, the Defendant had sworn that his father never had a servant named Gossein; but the letters of Sir James were shown to contain numerous allusions to "my faithful Gossein," and Gossein himself came into the witness box and told how he had known Roger Tichborne from the cradle to his boyhood, and from his boyhood to the very hour of his going on his travels. On the Orton question, nearly fifty witnesses declared their conviction that the Defendant sitting then before them was the butcher's son whom they had known in Wapping. Testimony of that kind, it is true, is of little value, though an exception should be made in the case of Miss Loader, the old sweetheart of Arthur Orton, who may be presumed to have remembered him well. But the strength of the Orton case of the prosecution lay in those documentary evidences of undisputed authenticity, and, above all, in that singular chain of circumstances which has been already noticed. The witnesses from Australia and from South America unhesitatingly identified the defendant with Orton; but it is more important to observe that their testimony was supported by records and documents of various kinds, including the ledgers of Mr. Foster, of Boisdale, letters under the Defendant's own hand, and writings which it could not be denied were from the hand of Arthur Orton.

On the other side, the witnesses were still more numerous. They included a great number of persons from Wapping, who swore they did not recognize in the Defendant the lad whom they had known as Arthur Orton. Many others swore they had known both Orton and the Defendant in Australia, and that they were different persons, but their stories were irreconcilable with each other, and were, moreover, in direct conflict with the statements of the Claimant on oath, while

several of these witnesses were persons of proved bad character, and unworthy of belief. Great numbers of Carabineers declared that the Defendant was exactly like their old officer; but, while ten officers of that regiment appeared for the prosecution, and positively affirmed that the Defendant was not Mr. Tichborne, only two officers gave testimony on the other side; and even these admitted that they had doubts. Eight years had elapsed since Mr. Gibbes fancied he had "spotted" Sir Roger in his "hovel" at Wagga-Wagga, but still no Arthur Orton was forthcoming; nor did the sister of Orton venture to come forward on behalf of the man who had been compelled to admit having taken them into his pay. Not only was the Claimant's story of his wreck and rescue shown to have been absurd and impossible, but it was unsupported by any evidence, except vague recollections of witnesses of having seen an *Osprey* and some shipwrecked sailors at Melbourne, in July, 1854; and it was admitted that if their tale were true, the phantom vessel, and the fact of its picking up nine precious lives, must have escaped the notice of Lloyd's agents, of Custom House officers, and of the Australian newspapers. Nay, more, the Claimant's *Osprey* must have escaped the notice of such authorities in every port which she had entered from the day that she was launched. So, indeed, the matter stood, until the witness Luie, the "pretended steward of the *Osprey*," swore to his strange story, as well as to the Defendant's recognition of him by name as an old friend. The Luie episode, terminating in the identification of that infamous witness as an habitual criminal and convict named Lundgren, only recently released on a ticket-of-leave, together with the complete disproof of his elaborate *Osprey* story, is familiar to the public. It was a significant fact that other witnesses for the defense were

admitted to be associates of this rascal; while, one of the most conspicuous of all—a man calling himself “Captain” Brown—had pretended to corroborate portions of Luie’s evidence which are now proved to be false.

Some allowance should certainly be made in the Defendant’s favor for the singularly unskillful and damaging character of his counsel, Dr. Kenealy’s two addresses to the jury, which occupied no less than forty-three entire days. The learned counsel not only made violent personal attacks on every witness of importance for the prosecution, without, as the judges observed, “any shadow of foundation,” but he assailed his own client with a vehemence and a persistence which are without parallel in the case of an advocate defending a person against a charge of perjury. He gave up statements of the Defendant at almost every period of his extraordinary story as “false;” declared them to be “moonshine;” expressed his conviction that no sensible person could for a moment believe them; acknowledged that to attempt to verify them in the face of the evidence, or even to reconcile them with each other, would be hopeless; set down some as “arrant nonsense,” denounced others as “Munchausenisms,” and recommended the jury “not to believe them” with a heartiness which would have been perfectly natural in the mouth of Mr Hawkins, but which, coming from counsel for the defense, was as one of the learned judges remarked, “strange indeed.” But the doctrine of the learned gentleman was that the very extent of the perjury should be his client’s protection, because it showed that he was not a man “to be tried by ordinary standards.” When in addition to this, he labored day after day to persuade the jury that Roger Tichborne was a drunkard, a liar, a fool, an undutiful son, an ungrateful friend, an abandoned libertine,—de-



DR. E. V. KENFALY, Q.C.
(LEADING COUNSEL FOR THE DEFENCE)





clared in loud and impassioned tones that he would "strip this jay of his borrowed plumes," and indignantly repudiated the notion that the man his client claimed to be had one single good quality about him, the humor of the situation may be said to have reached its climax. Yet Dr. Kenealy at least proved his sincerity by not only insinuating charges against the gentleman who disappeared with the *Bella*, but by actually calling witnesses to contradict point blank statements of his own client which lay at the very foundation of the charges of perjury against him.

Mr. Hawkin's powerful address quickly disposed of this singular mode of defense. The inquiry was raised into a calmer height, when the Lord Chief Justice commenced his memorable summing up, going minutely through the vast mass of testimony—depicting the true character of Roger Tichborne from the rich mine of materials before him, contrasting it with that of the Defendant, as shown by the evidence, and, while giving due weight to the testimony in his favor, exposing by the light which has been thrown on every point in this remarkable case literally hundreds of examples of the falsity of his statements made upon oath.

The verdict of GUILTY had been anticipated by all who have paid attention to the evidence. The foreman publicly declared that there was no doubt in the mind of any juryman that the man who has for eight years assumed the name and title of the gentleman whose unhappy story is recorded in these pages, is an impostor, who has added slander of the wickedest kind to his many other crimes. But not only were they satisfied of this; they were equally agreed that he is Arthur Orton. The sentence of fourteen years' penal servitude is assuredly not too heavy a punishment for offenses so enormous. It will be still more satisfactory if it shall be

found practicable to bring to justice the most prominent of those persons who have continued to lend aid and countenance to this most audacious attempt at fraud, long after the period at which the most charitable can imagine that their eyes were not opened to its true character.

FINAL SCENES IN THE TICHBORNE CASE.

It was just after 12 o'clock when the Jury retired to consider their verdict, and in the court, every part of which was densely crowded, great excitement prevailed. Dr. Kenealy, who during all the previous days occupied by the charge of the Lord Chief Justice was but rarely present, and then only for a very short time, was in his place. He arrived before the sitting of the Court, and remained until the end of the proceedings. The Defendant was in his usual place. In the space between the inner bar and the bench a sort of rude table, covered with green baize, had been fixed to the floor; at this he was seated, and before him were writing materials, which, on previous occasions, he kept continually using. At one side sat his solicitor and private secretary, on the other the younger Bogle, his constant attendants throughout the trial. He entered shortly before 10 o'clock, looking nervous and anxious, and seemed struck by the appearance of three men in plain clothes, who were sitting right in front of him, and who up to that day had not appeared in court. Their services were shortly to be required. As soon as the jury retired, Mr. Frayling, jun., tipstaff of the Court, took his place beside the Defendant in the seat before occupied by the younger Bogle. On a sudden there was a hush, and it was whispered, but hardly believed, that the jury had agreed on their verdict. The jury returned

into court at 33 minutes past 12. They were absent one minute less than half an hour, and every one now knew what the verdict would be. They took their places in the box, their names were called over, and the foreman pronounced the verdict—"Guilty on all the counts," with a special and emphatic vindication of Lady Radcliffe.

The Defendant stood up, confused and abashed, to hear his sentence.

Master COCKBURN, addressing the jury, said—"Gentlemen, are you agreed upon your verdict?"

The Foreman.—"We are."

Master COCKBURN.—"Do you find the defendant guilty or not guilty on the first count?"

The Foreman.—"*Guilty.*"

Master COCKBURN.—"Do you find the Defendant guilty or not guilty on the second count?"

The Foreman.—"*Guilty.*"

Master COCKBURN.—"You say he is guilty on both counts, and that is the verdict of you all?"

The Foreman.—"That is the verdict of us all."

The LORD CHIEF JUSTICE.—"Are you agreed upon all the issues? Are you agreed that the Defendant is not Roger Tichborne?"

The Foreman.—"We are, my Lord."

The LORD CHIEF JUSTICE.—"Are you agreed that he is Arthur Orton?"

The Foreman.—"We are."

The LORD CHIEF JUSTICE.—"Are you agreed on the issue of the assignment of perjury in reference to the sealed packet and Lady Radcliffe?"

The Foreman.—"We are."

Mr. HAWKINS.—"On behalf of the Crown, I pray for immediate judgment on the Defendant."

The Foreman of the Jury,—"I will read the verdict."

We find, first, that the Defendant is not Roger Charles Doughty Tichborne; secondly, we find that the Defendant did not seduce Miss Catherine Doughty, now Lady Radcliffe, and, further, we find that there is not the slightest evidence that Roger Charles Doughty Tichborne was ever guilty of undue familiarity with his cousin, Lady Radcliffe, on any occasion whatever (ap-
plause); thirdly, we find that the Defendant is Arthur Orton."

The LORD CHIEF JUSTICE.—"That disposes of all the issues."

The Foreman then handed to the Lord Chief Justice a written paper prepared by the jury, and asked the opinion of the Court whether it was a proper one to be read.

The LORD CHIEF JUSTICE.—"Yes, I think it is quite right. This is the general opinion of you all?"

The Foreman.—"Yes, my Lord, the general opinion of us all."

The LORD CHIEF JUSTICE thereupon read the paper, which was in these terms:

"The jury desire to express their opinion that the charges of bribery, conspiracy, and undue influence brought against the prosecution in this case are entirely devoid of foundation; and they regret exceedingly the violent language and demeanor of the leading counsel for the defendant in his attacks upon the conduct of the prosecution and upon several of the witnesses produced in the case.

"(Signed) H. F. DICKENS, Foreman."

The Defendant having been ordered to stand up,

Mr. Justice MELLOR pronounced the sentence of the Court upon him as follows: "Thomas Castro, otherwise called Arthur Orton, otherwise called Roger Charles Doughty Tichborne, Baronet, after a trial of unex-



THE TCHIBOKNE TRIAL—THE LORD CHIEF JUSTICE SUMMING UP.

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amplified duration, you have been convicted by the jury of the several perjuries charged in the counts of this indictment, and which were truly described by your counsel as "crimes as black and foul as Justice ever raised her sword to strike." In the trial of your case the jury have exhibited a care, a patience, and an intelligence never surpassed—indeed, it was such as to extort expressions of admiration from your own counsel, and their verdict meets with the unanimous approval of the Court. Indeed, it is difficult to conceive how any person who has considered the intrinsic improbabilities of your story, and has intelligently considered the evidence which has been adduced in the course of this trial, could have come to any other conclusion. The testimony of individuals, however numerous or respectable they may be, to your personal identity with either Arthur Orton or Roger Tichborne is comparatively of little worth after so great a lapse of time, except in the instances in which there existed special interest to observe and remember you. Of course the evidence of Miss Loader, of the family of Roger Tichborne, and of Mr. Gosford is of great importance in this case, and when I mention the name of Mr. Gosford I pause for a moment—speaking for myself at all events—to say that he has placed public justice greatly in his debt.

"Your entire ignorance of the native tongue of Roger Tichborne coupled with at least the partial acquisition of another language, the tattoo marks which were proved to have existed on the arm of the undoubted Roger Tichborne, and his genuine letters, and the letters written by you, whether in the character of Roger Tichborne or Arthur Orton, the admissions expressly made or implied in your conduct, and all that is known of the history of the life and character of Roger Tichborne and of yourself present an accumulation of proof such as

can rarely be given in a court of justice, and which conclusively demonstrates the propriety of the verdict of the jury. No man can look with an unprejudiced mind and a clear observation at the letters of the undoubted Roger Tichborne without coming to the conclusion that they were never written by you, while between the undoubted letters of Arthur Orton and your own there is evidence of identity most complete and convincing. Of what avail could the negative evidence of your identity with Arthur Orton be against the circumstances connected with your visit to Wapping, with your assumption of a false name, and your correspondence and dealings with the family of Arthur Orton, added to the fact that your counsel did not venture to put into the box Arthur Orton's sisters, who, from the very first, were in your interest, who had received money from you, and had made affidavits in your favor? The inference from your not calling them is irresistible—namely, that they were possessed of knowledge which must have tended strongly to prove your identity with Arthur Orton. That question, important as it is, is only material as affording one of the modes of proof that you are not and can not be Roger Tichborne.

“Whether you originally conceived and planned the entire scheme which you ultimately carried out, I know not. The marvelous growth and development of your knowledge as to the circumstances connected with the history of Roger Tichborne and his military life, leave it uncertain whether your original design was not enlarged by reason of the ease with which you found people so ready to become your dupes, and, I fear, in some cases, your accomplices. However that may be, in the carrying out of your scheme you hesitated at no amount of perjury and fraud which you thought to be necessary to its success. Wicked and nefarious as it was

to impose yourself upon society as Roger Charles Tichborne, and to attempt to deprive the lawful heir of his inheritance, that offense sinks almost into insignificance when compared with the still more infamous perjury by which you sought to support your scheme. I refer to your attempt to blast the reputation of Lady Radcliffe. No more foul or deliberate falsehood was ever heard in a court of justice. I can hardly restrain the indignation which I feel at the incredible baseness of your conduct in that respect. Happily the means of refuting that cowardly calumny were immediately at hand, and never was a charge so completely shattered and exposed as was that. It is not, however, because the refutation of the falsehood was singularly easy and complete that the baseness of your conduct is diminished. I believe I am speaking the sentiment of every member of the Court when I say that the punishment about to be assigned by the Court is wholly inadequate to your offense. The framers of the Act of Parliament that fixes and limits the sentence which the Court is authorized to pass upon you, never dreamed of circumstances so aggravated as exist in your case. The sentence of the Court which I now pronounce is, that for the perjury alleged in the first count of this indictment upon which you have been convicted, you be kept in penal servitude for the term of seven years; and that for the perjury alleged in the second count of this indictment, of which you have also been convicted, you be kept in penal servitude for the further term of seven years, to commence immediately upon the expiration of the term of penal servitude assigned to you in respect of your conviction upon the first count of this indictment, and that is the sentence of the Court."

The Defendant.—"May I be allowed to say a few words?"

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The LORD CHIEF JUSTICE.—“No.”

The Defendant then shook hands with his leading counsel, Dr. Kenealy, and was immediately afterwards removed from the Court in the custody of Mr. Frayling, jun., the tipstaff.

LEADING DATES IN THE TICHBORNE CASE.

1829.—Roger Tichborne born.

1849.—Entered the army.

1852, January.—Proposed marriage to his cousin, Miss Doughty, and was rejected.

1853, June 19.—Arrived at Valparaiso, from Havre.

1854, April 20.—Sailed from Rio Janeiro, in the *Bella*, which foundered at sea.

1865, May 19.—Lady Tichborne advertises for her son.

1866, July 3.—The Claimant, found by Gibbes and Cubitt, in Australia, asserts that he and eight others were saved from the wreck of the *Bella*; that he went to Australia, and lived there thirteen years in the name of Castro. Was married there as Castro; afterward re-married as Tichborne.

1867, January.—Claimant comes from Australia; and is accepted by Lady Tichborne as her son, at Paris. Is repudiated as an impostor by all the other members of the family, excepting Sir Clifford Constable.

1870.—Evidence taken in Chancery; commissions sent out to take evidence in Australia and South America.

1871, May 11.—Trial to recover the Tichborne estates (valued at £24,000 a year) begun in the Court of Common Pleas, before Chief Justice Bovill. Chief counsel for Claimant, Sergeant Ballan-

tine ; chief counsel for defendants—the trustees of Sir Henry Tichborne, a minor—Sir J. Coleridge, then Solicitor-General (afterwards Attorney-General). Claimant examined twenty-two days. Trial adjourned on fortieth day, July 7 ; resumed November 7 ; case for Claimant closed December 21.

1872, January 15.—Trial resumed. Sir J. Coleridge spoke twenty-six days.

1872, March 6.—103rd day of the trial. Jury interposed, and declared themselves satisfied that Claimant was not Sir Roger Tichborne ; Sergeant Ballantine, on behalf of the Claimant, elected to be non-suited.

1872, March 6.—Chief Justice Bovill ordered Claimant into custody, to be tried for perjury.

1872, April 9.—Claimant indicted as Castro, otherwise Orton.

1872, April 23.—Court of Queen's Bench allowed prisoner to be released on bail.

1873, January 11.—Mr. G. Onslow, M.P., and Mr. Whalley, M.P., ordered to appear before the Court for contempt.

1873, April 23.—Trial of Claimant begins at bar, before Lord Chief Justice Cockburn, Justice Lush, and Justice Mellor. Chief Counsel for prosecution, Mr. Hawkins, Q.C., and Mr. Sergeant Parry. Chief counsel for prisoner, Dr. Kenealy, Q.C., and Mr. McMahon.

1873, July 22.—Dr. Kenealy opens his speech for the defense.

1873, August 21.—First witness called for the defense.

1873, September 18.—The Claimant forbidden by the Lord Chief Justice to attend public meetings.

1873, September 23.—100th day of the trial.

1873, October 14.—Luie called as a witness.

1873, October 27.—Case for the defense closes.

1873, December 2.—Dr. Kencaly begins his closing speech for the defense.

1873, December 11.—Luie ordered into custody for perjury.

1874, January 15.—Mr. Hawkins begins his reply for the Crown.

1874, January 29.—Lord Chief Justice begins his summing-up. 169th day of the trial.

1874, February 28th.—188th day of the trial; verdict—guilty; sentence—fourteen years' penal servitude.



CLOSE OF A TREDIOUS TRIAL.

CHAPTER XIII.

TRIAL OF EDWARD, DUKE OF BUCKINGHAM.

EDWARD STRAFFORD, Duke of Buckingham, was nobly descended, of large fortune, and great and powerful alliances ; all of which could not save him from the destruction which the malice and revenge of Cardinal Wolsey brought upon him. The first seeds of discontent were sown in 1520, on the occasion of the interview between Francis of France and Henry VIII., when the Duke complained of the extravagance of the expense, and laid the blame on the cardinal, which his vindictive nature would not forgive.

The cardinal omitted no opportunity to whisper in the King's ear surmises of the Duke's unfaithfulness and disaffection to his majesty ; that the Duke had been heard to say, that he should arrange matters so as to obtain the crown for himself in case the King died without issue, and that he had had conference upon the matter with George Nevil, Lord Abergavenny, and that he had threatened to punish the cardinal for being his enemy without a cause.

Being warned of the danger he was in from the wicked designs of the Duke, the King ordered his arrest. He was committed to the tower, and indicted upon several articles of high treason, in substance as follows :

That the said Duke, intending to exalt himself, and to usurp the crown and regal dignity, and to deprive the King's majesty of it, that so he might take the same upon himself against his allegiance, had on the 10th of March, in the second year of the King's reign, and at several other times, both before and after, imagined and

compassed the King's death and destruction at London and at Thornbury, in the county of Gloucester ; and in order to the accomplishment of his wicked designs and purposes, he sent one of his chaplains, John De la Court by name, on the 24th day of April, in the fourth year of the King's reign, to the priory of Henton, in the county of Somerset, which is a house of Carthusian monks, the substance of whose message was, to know of one Nicholas Hopkins, a monk of the same house, who was reputed to have the foreknowledge of future things revealed to him, what should happen concerning the matters he had entertained in his imagination, causing the said De la Court first to swear to him he would never divulge the words to any person whatsoever, except the Duke himself ; and that Hopkins, in reply, did declare, that the Duke should have all, advising him, the better to accomplish his ends, to engage the affections of the people to him ; that De la Court returned with this answer, which he reported to the Duke next morning, being the 25th of April, at Thornbury.

That the Duke on the 22d of July, same year, sent De la Court with letters to the same monk, to be further informed in the matter. The monk answered again, he should have all, by the grace of God.

The third time the Duke sent to the monk, in the fifth year of the King's reign, desiring to know what would be the issue of the wars in France, and whether the King of Scots, during his majesty's absence, would invade the realm or not ; that the monk among other things said that the King would have no male issue.

That on the 20th February, he said to the Earl of Westmoreland, " Well, there are two new dukes in the kingdom, but if the King should in any way miscarry, the Duke of Buckingham would be the next in blood and succession to the crown." That the monk afterwards

told him that he should be King. The Duke had at various times given sums of money to the monk for divers purposes, and said the monk had done well to enjoin secrecy on De la Court, as, if these things should reach the King, they would ruin him.

That in order to acquire the love of the people, and accomplish his designs, he had bought cloths of gold and silver and velvet, and conferred the same upon knights, esquires, and gentlemen of the King's household, yeomen of the guard, and others, to engage their affections, to carry out his evil designs.

That at divers times the Duke appointed a greater number officers, in his castles, houses, and lordships, than was his wont, to assist in accomplishing his evil purposes. That he earnestly solicited his majesty for leave to retain any of the subjects of the counties of Hereford, Gloucester, and Somerset, to convey warlike instruments in Wales, to use against the King, and usurp the government.

That the Duke again sent to the monk on 20th May, who replied, that there should be an alteration before Christmas, and that he should rule and govern the whole kingdom. That he said to his chancellor that he waited for an opportune season to put his designs into execution, which he could easily do if some of the nobility would declare their minds together. That he found faults with everything that was transacted in the present reign.

That the Duke also said, in the eleventh year of the King's reign, that after the King had reproved the Duke for retaining Sir William Patner in his service, if he had found he must have been committed to the tower, he would have managed his business so that the principal agents should have had no great reason to rejoice; for he would have played the part which his father intended

to put in practice against Richard III. at Salisbury, who if he had been admitted into the presence of that Prince, would have stabbed him. The Duke swore he would do his utmost to accomplish his designs.

That in the twelfth year of the King's reign, in London, he asked what was said of the King's voyage beyond the seas? That fears were entertained of evil designs intended by the French. The Duke replied, he feared it would come to pass according to the predictions of a certain monk. Farther, that the Duke said, if the King had died in his last sickness, he would have chopped off the head of the cardinal and Sir Thomas Lovel.

Lastly, that in the eleventh year, the Duke murmured against the privy-council and their administration, saying, that if the King died, he would have the government in spite of all opposers.

How far the particulars of the indictment were proved, is not known; but the following account by the Duke himself, to Sir Thomas Lovel, constable, is vastly different in almost all circumstances, from the matters contained in the indictment :

That the summer before the King made war in France, Hopkins sent for him, but not being able to go, he sent De la Court, his chaplain. That Hopkins said naught to him; that next Lent he went himself, and in shrift (confession) the monk told him the King should obtain great honor in France, that if the King of Scots came to England, he should never go home again. That the monk prayed God his issue might continue, for he feared God was not pleased, because he made no restitution, according to his father's will. That at another time he came to the monk with his son Strafford and the Earl of Westmoreland, and that the monk asked who he was, and said, "Some of his blood or name should prove great

men." And that after the monk sent to the Duke praying him to help their house, being at Newton, to make their conduit, the ten pound formerly given being expended.

The Duke was indicted as above, and arraigned in Westminster Hall. Duke of Norfolk being constituted high-steward of England for the day. The prisoner pleaded not guilty. Said the indictment was false, untrue, and forged to take away his life. The Duke desired that the witnesses might appear—Knevet, Gilbert, De la Court, and Hopkins; these stood to their depositions. The Duke was found guilty and sentenced. The Duke of Norfolk pronounced the death sentence, to which the unhappy Duke replied, "My Lord of Norfolk, you have said as a traitor should be spoken to, but I never was one; but my Lords, I do not reproach you; may the eternal God forgive you. I'll never sue the King for my life, though he is a gracious Prince, and may show more mercy than I desire."

All the favor that was shown him was a message from the King, declaring his sentence so far mitigated, that instead of dying like a traitor, he should be beheaded. Accordingly, on Friday, 17th of May, the sentence was carried out. He declared to the last, that he was the King's loving and true subject.

The Duke was thought rather criminal through folly and rash expressions, than any intention declared by overt act, against the King's person; hence, not incapable of mercy, had he sued for it in a proper manner; but since his arraignment, he did, as it were, disclaim life, and caused only a consolatory letter to be written to the Duchess and his son.

Never was such a complication of remote treason set together; and there is such a punctuality in dates, it seems like a design to ruin the Duke, from the beginning

of the King's reign and the cardinal's grandeur. The Duke's indiscretion, and the cardinal's malice, were really the sources of the brave man's misfortunes. And as the former was lamented by the people, the other was libelled, and called Carnificis Filius, the son of a butcher (as indeed he was); to which we may add, the Duke's hard fate was lamented abroad, as well; and when the Emperor was told of it, he said, "A butcher's dog has worried to death the finest buck in England." He was the last hereditary Lord High Constable of England, being descended from Thomas of Woodstock, Duke of Gloucester, sixth son to Edward III., and was so remote from the crown, that it is absurd to believe he made any pretensions to it.

CHAPTER XIV.

TRIAL OF QUEEN ANNE BOLEYN.

KING HENRY VIII., having obtained a divorce from his first wife, Queen Catherine of Spain, married the Lady Anne Boleyn, daughter of Sir Thomas Boleyn. The marriage was celebrated on the 14th of November, 1532. She bore him one daughter, Elizabeth, afterwards Queen of England.

The popish party were bitterly opposed to the queen ; they looked upon her as the great supporter of heresy. The Duke of Norfolk at court, and Gardiner, ambassador in France, planned a way for reconciling the king with the emperor and pope, if the queen could be removed out of the way ; he then might marry whom he pleased. The male issue from such an alliance could not be disputed ; whereas his present marriage, being judged null, could never be allowed by the court of Rome.

The queen had been his wife three years. At this time he entertained a secret affection for the Lady Jane Seymour.

Queen Anne was of very cheerful temper, not always kept within the bounds of discretion. Every jest or bit of familiar conversation was treasured up by her enemies, and used fatally against her in the bitter trial through which she passed. Lord Rochford, her brother and friend, Henry Norris, groom of the stole, Weston and Brereton, gentlemen of the king's privy-chamber, and Mark Smeton, a physician, were observed to have great share in her favor, and when the queen was confined to her chamber, were all seized ; but none would confess to anything, except Mark Smeton. The queen

was soon after sent to the Tower, where she was examined by the Duke of Norfolk, and others of the privy-council. The following letter written by her, found among Cromwell's papers, is said to be genuine :

“ Your Grace's displeasure, and my imprisonment, are things so strange unto me as what to write, or what to excuse, I am altogether ignorant ; whereas you send unto me (willing me to confess a truth, and to obtain your favor) by such an one, whom you know to be mine ancient professed enemy ; I no sooner received this message by him, than I rightly conceived your meaning ; and if, as you say, confessing a truth indeed may procure my safety, I shall with all willingness and duty perform your command.

“ But let not your Grace ever imagine that your poor wife will ever be brought to acknowledge a fault, where not so much as a thought thereof preceded ; and to speak the truth, never prince had a wife more loyal in all duty, and in all true affection, than you have ever found Anne Boleyn, with which name and place I could willingly have contented myself, if God and your Grace's pleasure had been so pleased. Neither did I at any time so far forget myself in my exaltation, or received queenship, but that I always looked for such an alteration as now I find. For the ground of my preferment being on no surer foundation than your Grace's fancy, the least alteration I knew was fit and sufficient to draw that fancy to some other subject. You have chosen me, from a low estate, to be your queen and companion, far beyond my desert or desire ; if then you found me worthy of past honor, good your Grace, let not any light favor, or bad counsel of mine enemies, withdraw your princely favor from me ; neither let that stain, that unworthy stain of a disloyal heart, towards your

good Grace, ever cast so foul a blot on your most dutiful wife, and the infant princess, your daughter ; try me, good king, but let me have a lawful trial, and let not my sworn enemies sit as my accusers and judges : yea, let me receive an open trial, for my truth shall fear no open shame ; then shall you see either mine innocence cleared, your suspicion and conscience satisfied, the ignominy and slander of the world stopped, or my guilt openly declared ; so that whatsoever God or you may determine of me, your Grace may be free from an open censure ; and mine offence being so lawfully proved, your Grace is at liberty, both before God and man, not only to execute most worthy judgment on me, as an unlawful wife, but to follow your affection already settled on that party, for whose sake I am now as I am ; whose name I could some good while since have pointed unto your Grace, being not ignorant of my suspicion therein.

“ But if you have already determined of me, and that not only my death, but an injurious slander must bring you the enjoying of your desired happiness, then I desire God that He will pardon your great sin therein, and likewise mine enemies, the instruments thereof ; and that he will not call upon you to a strict account for your unprincely and cruel usage of me, at His general judgment seat, where both you and myself must shortly appear, and in whose judgment, I doubt not (whatsoever the world may think of me), my innocence shall be openly known and sufficiently cleared.

“ My last and only request shall be, that myself may only bear the burden of your Grace's displeasure, and that it may not touch the innocent souls of those poor gentlemen, who, as I understand, are likewise in strait imprisonment for my sake. If ever I have found favor in your sight : if ever the name of Anne Boleyn has

been pleasing to your ears, then let me obtain this request, and I will forbear to trouble your Grace any further. With mine earnest prayer to the Trinity to have your Grace in their good keeping, and to direct you in all your actions,

“ I remain,

“ Your most loyal and ever faithful wife,

“ ANNE BOLEYN.

“ From my doleful prison in the
Tower, this 6th of May.”

The queen's misfortunes set the whole court against her, with the exception of Archbishop Cranmer, who—neither base nor ungrateful—had conceived a great opinion of her virtue and goodness. He knew the king's rough temper, and that downright justification would the more provoke him. On May 3d he wrote the king a letter, containing many things that redound to the honor of the queen.

But jealousy, and the fresh object of the king's affections, utterly defaced all his remaining esteem for Queen Anne; the ministers continued their efforts to get further evidence for the trial, which was brought on the 12th May, on which day Norris, Weston, Brereton, and Smeton were tried by a commission of Oyer and Terminer in Westminster Hall. Mark Smeton confessed he had intrigued with the queen; the others pleaded not guilty; but they were all convicted, and judgment given that some should be hanged and others beheaded. Smeton, it is said, was bribed to make the confession, and promised his life, but was not fit to live to tell tales.

Norris was offered his life if he would accuse the queen and confess his guilt; but he rejected the proposal, and said that he believed her innocent.

On the 15th, Sir William Kingston brought forth the

queen and Lord Rochford to be tried by their peers. There were twenty-six of them, and their names are thus recorded :

	DUKE OF NORFOLK, Lord High Steward.
DUKE OF SUFFOLK.	LORD MONTAGUE.
MARQUIS OF EXETER.	LORD MORELY.
EARL OF ARUNDEL.	LORD DACRES.
EARL OF OXFORD.	LORD COBHAM.
EARL OF NORTHUMBERLAND.	LORD MALTRAVERS.
EARL OF WESTMORELAND.	LORD POWIS.
EARL OF DERBY.	LORD MONTEAGLE.
EARL OF WORCESTER.	LORD CLINTON.
EARL OF RUTLAND.	LORD SANDS.
EARL OF SUSSEX.	LORD WINDSOR.
EARL OF HUNTINGTON.	LORD WENTWORTH.
LORD AUDLEY.	LORD BURGH.
LORD DE LA WAR.	LORD MORDANT.

Before these noble lords the queen was indicted of high treason. The crimes laid to her charge were :

“That she had procured her brother and the other four to lie with her, which they had often done.

“That she had said to them that the king never had her heart.

“That she had said to every one of them, by themselves, that she loved them better than any person whatsoever.

“That the whole tended to the slurring of the issue begot between the king and her.”

When the indictment was read she pleaded not guilty, as did her brother. The particulars of her trial are not known, only that in general she answered all the evidence brought against her very discreetly, and seemed to clear herself of all charges. One discreditable thing in the proceedings of the court is, that Mark Smeton, the only person who confessed anything against her, was never

confronted with the queen, but condemned three days before, and could not be a witness in the law.

But perhaps her enemies, having worked up the wretch to a false confession, felt that he would not have courage to aver the same to the queen's face. Or perhaps their apprehensions of offending the king wrought upon them so far as to find her guilty ; and judgment was pronounced that she should be burnt or beheaded.

This was not enough to satisfy the king ; the marriage between them must be annulled, and the issue made illegitimate. Had the queen made any confession before the trial, the divorce would have preceded. Laying under so terrible a sentence, it is most probable they wrought upon her with hopes of life, or at least a mitigation of the sentence ; so that she was brought to confess a pre-contract, and in court at Lambeth acknowledged some just and lawful impediments by which her marriage with the king was invalid. It is said a decree of divorce was then passed.

To cite from a learned pen concerning the sentence, one of attainder and the other of divorce : " They did so contradict each other, that it was apparent one or both must be unjust. For if the marriage between them was null, then not being the king's wife there could be no adultery ; for there could be no breach of faith where none was given. The very method the king took to be rid of her, discovered the injustice of the proceedings."

The queen was brought to the scaffold on the 19th of May. She made the following short speech at the last :

" Good Christian people, I am come hither to die ; for according to the law, and by the law, I am adjudged to die ; and therefore I will speak nothing against it. I am come hither to accuse no man ; nor to speak anything of that whereof I am accused and condemned to

die ; but I pray God save the king, and send him long to reign over you ; for a gentler nor a more merciful prince was there never, and to me he was ever a good, a gentle, and a sovereign lord. And if any person will meddle of my cause, I require them to judge the best. And thus I take my leave of the world, and of you all, and I heartily desire you all to pray for me. O Lord, have mercy upon me ! to God I commend my soul. Jesus, receive my soul ! ”

CHAPTER XV.

TRIAL OF JOHN HAMPDEN.

CHARLES I., during the early part of his reign, becoming offended with Parliament for refusing to grant him sufficient supplies for carrying on the war, and for resisting his arbitrary designs, decided to rule without their aid, and proceeded to levy money, in various ways, independent of their authority. One of these methods was a tax called ship-money.

Certain inhabitants of the county of Bucks refused to pay the money so assessed. Among them, John Hampden was called upon to show cause why he should not pay the sum levied. The cause was appointed to be heard in the Exchequer-Chamber, before all the judges of England.

Mr. St. John, counsel for Hampden, entered upon the defence.

He admitted that the king was by law intrusted with the care and defence of the realm. But while the *suprema potestas* was inherent to his majesty, the question was, by what means this supreme power was to be communicated and applied, the law of England having no known rules necessary to be observed in such cases.

“As the king could not apply his laws in many cases without the assistance of his judges, so he could not communicate either his power or justice without the help of his Parliament. It did not appear that this writ, giving power to sell and alter the property of the defendant's goods, was issued from his majesty sitting in Parliament. Hence was it not erroneously issued ?

"There were several known and undoubted ways and means, whereby the law had provided for the defence of the realm, both by land and sea. The way by this writ was as unusual and extraordinary as it was illegal. The king could not, without a Parliament, tax his subjects in any way."

Sir Edward Littleton argued in behalf of the king :

"That the writ directed to the sheriffs of Bucks for providing a ship for the defence of the kingdom, was the ground of assessment. The question was, whether the king, finding the safety of the kingdom imperilled, might not command aid ?

"The common safety was to be preferred to our private estate ; in 1588 great armies of 100,000 men were raised by the Queen's sole authority ; and orders given, if they could not prevent the enemy's landing, to burn the towns, destroy the corn, and all manner of provisions that might afford them sustenance. There was no possibility of saving private fortunes, if they suffered the kingdom to be lost.

"In Queen Elizabeth's reign, greater things were done upon less occasions ; ships were taken up, ports shut, and men raised, on the least apprehension of danger. It would be stupid to take no precautions against an enemy till he was actually on our coast.

"The king knew best the exigencies of the hour. The making war and peace was a royal prerogative. Dangers should be prevented as well as removed.

"It was true, nothing ought to be taken from the subject ordinarily, but in Parliament ; but that did not prove he was not to contribute to his own defence in cases of imminent danger.

"As to the statutes that prohibited the levying money on the people without the consent of Parliament, this must be understood of unjust exactions and ordinary

cases ; not where the whole kingdom was in danger ; there be might danger foreseen by the king, though no war was actually proclaimed, of which the king was the only judge."

Mr. Holborne observed in behalf of Mr. Hampden :

" That at the time the writ was issued, in the king's judgment the kingdom was not in danger. The writ only mentioned losses of merchants by pirates ; no danger to kingdom or people in general. There were above two hundred days between the teste of the writ, and the rendezvous appointed by it ; the summoning a Parliament required but forty days.

" And had the words been positive, the word *salus* was but a metaphorical expression, and the law would not endure metaphors in writs and pleadings ; nor did these words import immediate danger of the loss of the kingdom ; for applying the word *salus* to a natural body, the doctor might say his patient was not in health, and yet he might be in no danger of death ; the same sense it must have in the body politic.

" And though all property must submit to necessity, yet a distant danger will not authorize a man to invade another's property. If Queen Elizabeth did in 1588 command the burning of corn and other provisions if the enemy landed, she could not lawfully command them to burn their corn before the enemy landed. All positive law must cease in time of extreme danger ; but whether all laws relating to our persons and properties ceased when the danger was but conceived, he questioned."

Sir John Banke, attorney-general, replied. The judges then proceeded to deliver their judgments in the case. Sir Francis Weston said :

" He conceived there was sufficient matter to charge Mr. Hampden with the twenty shillings assessed on

him ; and therefore he gave his judgment for the king. It had been objected, that *salus* signified health, but it also signified safety ; and, though it was said the danger was not fully set forth in the writ of August 4th, he answered, it might not always be proper to divulge the danger the nation was in ; but in the writ of August 4th, there was not only a danger from pirates mentioned, but that the dominion of the sea was in danger of being lost ; and that there were great dangers from the nations at war around us, and they ought to believe this, if for no other reason than that the king had declared it ; but it was evident to all men, that the kingdom had actually been in danger for three or four years past, from the great fleets that had been fitted out, and the land forces raised by neighboring nations ; and had we not had a good fleet at sea, we must have been exposed to their insults and invasions.

“ He conceived the proceedings were legal, and that the twenty shillings assessed on John Hampden ought to be paid.”

Sir Francis Crawley, one of the justices of the court of common pleas, next gave his judgment, taking the same view as the preceding judge :

“ Considering the danger so great and evident in these warlike times, it was hazardous to attend the delays of Parliament ; he exhorted the subjects, therefore, to rely on their pious king, whose prerogative and right of sovereignty it was to defend the realm.”

Sir George Vernon, a justice of the common pleas, said :

“ He held that the king, for the public good, might charge his subjects for the defence of the kingdom ; and that a statute, derogatory to this prerogative, would not bind the king. He might, in cases of necessity, dispense with any law, and therefore concluded that Mr.

Hampden ought to be charged with the twenty shillings assessed on him."

Sir Thomas Trevor gave his judgment against the defendant.

Sir George Crooke, one of the justices of the kings-bench, Sir Richard Hutton, of the common pleas, Sir Humphrey Davenport, lord chief-baron of the exchequer, and Sir John Finch, lord chief-justice of the common pleas, argued on the merits of the case at considerable length. Sir John Bramston, lord chief-justice of the king's bench, agreed substantially with those who had preceded him, in their judgments.

In the next June, viz., in Trinity Term, judgment was given in the exchequer against Mr. Hampden.

In the Parliament assembled on the 13th of April, 1640, it was moved in the House of Commons, to have the judgment reversed, and the judges punished for pronouncing it. This Parliament sitting but a few days, nothing was done in the affair.

In the Parliament assembled in November, it was moved that the judges be again called to account; observing that as they had allowed the king the sole power in necessity, and the sole judgment of necessity, they had enabled him to take from them what he would, when he would, and how he would, and consequently left them neither liberties nor properties. A series of resolutions were passed, protesting against the unlawfulness of the judgments. That the writs called ship-writs were against law, liberty, and property; as was also the extra-judicial opinions of the judges, and the judgment against Mr. Hampden.

The judges were impeached for high treason and other misdemeanors.

On the 20th of January, the lords resolved that the ship-writs, and judge's opinion on them, were contrary

to the laws and statutes of the realm. On the 26th of February, they agreed that said judgment against Mr. Hampden should be vacated.

Later an act was passed making all the records and remembrances of said proceedings and of said ship-writs, together with entries, judgments, etc., should be vacated and cancelled.

Thus did John Hampden obtain in the end, that for which he sacrificed his peace and safety. His high character for talents, integrity, and patriotism, made him very influential in Parliament and the nation. This claim of the king of the right to force his subjects, without an act of Parliament, to provide and furnish ships when he thought proper, struck at a vital principle. The noble stand made against this by John Hampden, roused the nation to a sense of the danger to which their liberties were exposed, and after a struggle, fixed the bounds of their own freedom and the king's prerogative.

CHAPTER XVI.

TRIAL OF THOMAS, EARL OF STRAFFORD.

IN the Parliament which began the 3d of November, 1640, Mr. Pym, in the House of Commons, made a severe speech against the Earl of Strafford, declaring him the greatest enemy to liberty, and the greatest promoter of tyranny and arbitrary power, any age had produced ; and being seconded by members of the same party, it was resolved to impeach the Earl of high treason.

On the 30th of January, twenty-eight articles were sent up against him.

1. That the Earl being President of the North, exercised his power over persons, depriving them of estates and possessions, fining and imprisoning them, to their utter ruin. That he procured directions, that no prohibition should be granted ; that none should be discharged on a *habeas corpus*, till they had performed their duties.

2. That soon after procuring his first commission, he declared, that since some of the justices of peace were all for law, they should find the King's little finger heavier than the loins of the law, in order to terrify them, that they should not execute the laws.

3. He declared Ireland a conquered kingdom, and that their charter bound the King no farther than he pleased.

And so on, charge after charge, of public and private abuse and oppression, was brought against him. That he wrested from subjects their estates, disposed of freeholds, and ruined hundreds of families. That he granted commissions to bishops, to commit the meaner sort of people to prison, who should not obey their decrees.

That he farmed the customs to advance his gain. That he extorted great sums for licenses. That he prohibited the importing of tobacco. That he commanded the Irish to work flax and yarn into thread. That he imposed an unlawful oath on ship-owners and masters, to give an account of their lading, and from whence they come, and whither bound. That he levied troops at great cost. That he prevailed on his Majesty not to allow any complaints to be received from Ireland. That he restored several religious houses, that were now exercising the Popish religion. That he incited his Majesty to carry on an offensive war against Scotland. That he conspired against the English government. That receiving advice of the Scottish army's advance into England, he suffered Newcastle to fall into their hands, that England might be incensed against them. All these things and many more the Earl was accused of; with intent to create division and destruction in his Majesty's kingdom, for which he was impeached of high treason.

The trial took place in the great hall in Westminster. The first day was occupied in reading the articles of accusation. On the second day, Mr. Pym aggravated the charge of the day before by an ample speech. The main points were that it was treason far beyond the reach of words; that he, a peer of England, Prime Governor of Ireland, a Protestant in religion, should have in so gross a manner recompensed his Majesty's favors, abused his goodness, and drawn all the dominions into hazard and peril of their religion, lives, goods, and privileges; one of these faults alone had been enough, and that no punishment was great enough to expiate crimes of such a transcendent nature.

The Earl replied in his own defence. Spoke of his services to the King and Crown of England, his endeavors for the advancement, honor, and interest of both

kingdoms in general, but Ireland in particular; how he had advanced the King's revenues there, restored the church's maintenance, suppressed outlaws, established obedience to royal authority, and overawed the tyranny and usurpations of greater ones over the Commons, modestly speaking of himself as a weak instrument in the effecting of these things.

His accusers, one after another, preferred their charges. After prolonged debates and discussions, Lord Strafford replied as follows :

“ MY LORDS : This day I stand before you charged with high treason ; the burden is heavy, yet far the more, in that it hath borrowed the patrociny of the House of Commons ; if they were not interested, I might express a no less easy, than I do a safe issue and good success to the business ; but let neither my weakness plead my innocence, nor their power my guilt. I hope to go away from hence as clearly justified, as I am now in the testimony of a good conscience, by myself. My Lords, I have all along my charge watched to see that poisoned arrow of treason, that some men would fain have to be feathered in my heart, and that deadly cup of wine, that hath so intoxicated some petty misalleged errors, as to put them in the elevation of high treason ; but in truth it hath not been my quickness to discern any such monster yet within my breast, though now, perhaps, by a sinistrous information, sticking to my clothes. They tell me of a two-fold treason, one against the statute, another by the common law ; this direct, that consecutive ; this individual, that accumulative ; this in itself, that by way of construction.

“ For the first, I must and do acknowledge, that if I had the least suspicion of my own guilt, I would cast the first stone, and pass sentence of condemnation against myself. You and you only are my judges ; under favor, none of

the commons are my peers, nor can they be my judges. I shall ever celebrate the providence and wisdom of your noble ancestors, who have put the keys of life and death (so far as concerns you and your posterity) into your own hands, not into the hands of your inferiors; none but your own selves know the rate of your noble blood; none but yourselves must hold the balance in dispensing the same."

He answered each article put forth against him for individual treason.

He then said: "To make up the constructive treason, or treason by way of accumulation, many articles are brought against me, as if in a heap of felonies or misdemeanors (for in their conceit, they reach no higher), some prolific seed, apt to produce what is treasonable, might lurk. Here I am, charged to have designed the ruin and overthrow of religion and State. The first seemeth rather to have been used to make me odious than guilty, for there is not the least proof concerning my confederacy with the popish faction; never a servant was more hated by that faction than myself, for my impartial and strict execution of the laws against them. I am ready every hour of the day to seal my disaffection to the Church of Rome with my dearest blood.

"But, my Lords, give me leave here to pour forth the grief of my soul before you: these proceedings are exceeding rigorous, and seem to have more of prejudice than equity; that upon a supposed charge of hypocrisy or errors in religion, I should be made so monstrously odious in three kingdoms. A great many thousand eyes have seen my accusations, whose ears shall never hear, that when it came to the upshot, I was never accused of them. Is this fair dealing among Christians? But I have lost nothing by that; popular applause was ever nothing in

my conceit ; the uprightness and integrity of a good conscience was, and ever shall be, my continual feast.

“As for my design against the State, I dare plead as much innocency there, as in the matter of religion. All those who have been most accessory to my inward thoughts and opinions, can bear witness I did ever inculcate this : that the happiness of a kingdom consists in a just poise of the King's prerogative and the subject's liberty ; and that things would never go well, till they went hand and hand together.” . . .

In this order he went through the whole charge. . . .

“My Lords, you see what may be alleged for this constructive, rather, destructive, treason. For my part, I have not the judgment to conceive that such a treason is agreeable either with the fundamental grounds of reason or law : not of reason, for how can that be treason in the lump or mass, which is not so in any of the parts ? . . . These gentlemen tell me they speak in defence of the commonwealth, against my arbitrary laws. I say, I speak in defence of the commonwealth, against their arbitrary treason. . . .

“Something more I had to say, but voice and spirit fail me ; only I do in all humility cast myself down at your lordships' feet, and desire that I might be a pharos, to keep you from shipwreck ; do not put such rocks in your own way, which no prudence, no circumspection, can eschew or satisfy, but by your utter ruin. And whether your judgments in my case (which I wish were not the case of you all) be either for life or death, it shall be righteous in my eyes, and received with a *Te Deum Laudamus*.”

The reply of the Commons was, in words and tenor, much the same as before. They had found out the *Jonah* who these many years had tossed and hazarded the ship of state with continual storms and tempests, and

there could be no calm expected, but by casting him out upon the seas.

On Wednesday, the House of Commons, perceiving a great defection of their party, and increase of Lord Strafford's friends in both Houses, resolved to hear nothing more in public.

The Lords told the Commons on Thursday, that they should go on in the same way, giving full audience to Lord Strafford's counsel, and themselves to give sentence in the cause. Nor was there any other course suitable to the practice and statutes of the kingdom, safety of the nobility, or to equity or common justice.

It was replied by the Lower House, they were resolved to go on with the bill, and if the same should be rejected by the Lords, they feared a rupture might follow, to the utter ruin and desolation of the whole kingdom; that no content would be given, unless the man who had so much intruded upon their rights, and discontented their kingdom, was punished as a traitor.

The King himself came to the House on Friday, and made a speech, in which he said: "There was nothing in the process against the Earl that deserved the censure of treason. Oversights and misdemeanors there were, which would make it impossible for the Lord Strafford to hereafter bear any office in the kingdom. That he would never in heart or hand, concur with them, to punish this man as a traitor."

On Saturday the bill passed the Lords. On Sunday the King was resolute never to sanction the bill, but at last, he consented to sign next morning, in which act he forever lost all authority and influence over the people. Henceforth he became dependent on Parliament. The sentence was carried into effect on May 12th.

CHAPTER XVII.

TRIAL OF ALGERNON SIDNEY.

ALGERNON SIDNEY, the son of Robert, second Earl of Leicester, and of Dorothy, daughter of the Earl of Northumberland, was born at Penshurst, in Kent, in the year 1634. The chivalrous spirit and characteristic energy of his illustrious family, led him to espouse the cause of the people against the encroachments of the Stuarts, and the tyranny of their favorites; and he served during the Civil Wars as a Parliament colonel in Ireland. When the tribunal was appointed for trying Charles I. he was nominated one of the commissioners, but did not sit. After the restoration, he was viewed with an eye of jealousy by the Court, and still lived in intimacy with the republican and discontented party. An opportunity was found in the evidence of the infamous Lord Howard of Eserick, to seize his person and papers; and on the illegal evidence of the latter, and the questionable of the former, he was found guilty by one of those venal or alarmed juries, who abuse their sacred duties.

The indictment sets forth the charge in the following terms :

“ Middlesex Sessions.—The jurors for our lord the king, upon their oaths do present, that Algernon Sidney, late of the parish of St. Martin in the Fields, in the county of Middlesex, Esquire, as a false traitor against the most illustrious, most excellent prince, our Lord Charles II. by the grace of God, king of England, Scotland, France, and Ireland, and his natural lord, not having the fear of God in his heart, nor weighing the

duty of his allegiance, but moved and seduced by the instigation of the devil, utterly withdrawing the cordial love, and true, due, and natural obedience, which a true and faithful subject of our said Lord the King should bear towards him the said Lord the King, and of right is bound to bear ; contriving and with all his strength intending to disturb the peace and common tranquillity of this kingdom of England, and to stir up and move war and rebellion against the said Lord the King in this kingdom of England, and to depose and deprive the said Lord the King from the title, honor, and regal name of the Imperial Crown of this kingdom of England, and to bring and put the said Lord the King to death and final destruction, the thirtieth day of June, in the five-and-thirtieth year of the reign of our Lord King Charles II. now King of England, etc., and divers other days and times, as well before as after, at the parish of St. Giles in the Fields, in the county of Middlesex, maliciously and traitorously, with divers other traitors to the jurors aforesaid unknown, did conspire, compass, imagine, and intend to deprive and cast down the said Lord the King, his supreme natural Lord, not only from the regal state, title, power, and rule of this kingdom of England, but also to kill and bring and put to death the same Lord the King ; and to change, alter, and utterly subvert the ancient government of this his kingdom of England, and to cause and procure a miserable slaughter among the subjects of the said Lord the King through his whole kingdom of England, and to move and stir up an insurrection and rebellion against the said Lord the King within the kingdom of England, and to fulfil and perfect those his most horrid, wicked, and diabolical treasons and traitorous compassings, imaginations, and purposes, the same Algernon Sidney, as a false traitor then and there, and divers other days and times, as well before as

after, maliciously, traitorously, and advisedly, did assemble himself, meet and consult, with the aforesaid other traitors to the jurors aforesaid unknown, and with the same traitors did treat of, and for those his treasons and traitorous compassings, imaginations, and purposes to be executed and fulfilled. And that the aforesaid Algernon Sidney as a false traitor, maliciously, traitorously, and advisedly, then and there, and divers other days and times, as well before as after, upon himself did assume, and to aforesaid other traitors did promise, that he would be aiding and assisting in the execution of their treasons and traitorous compassings, imaginations, and purposes aforesaid, and to fulfil, perfect, and reduce to effect, those their most horrid treasons and traitorous compassings, imaginations, and purposes aforesaid, the same Algernon Sidney as a false traitor, then and there, falsely, maliciously, advisedly, and traitorously did send one Aaron Smith into Scotland, to invite, procure, and incite divers evil disposed subjects of our said Lord the King, of his kingdom of Scotland, to come into this kingdom of England, to advise and consult with the aforesaid Algernon Sidney, and the aforesaid other unknown traitors in this kingdom of England, of aid and assistance to be expected and supplied from the kingdom of Scotland, to fulfil, perfect, and reduce to effect those their most wicked, horrid, and traitorous treasons aforesaid. And that the aforesaid Algernon Sidney, to fulfil and perfect those most wicked, horrid, and devilish treasons and traitorous compassings, imaginations, and purposes aforesaid, and to persuade the subjects of the said Lord the King of this kingdom of England, that it is lawful to make and stir up an insurrection and rebellion against the said Lord the King that now is, the said thirtieth day of June, in the five-and-thirtieth year of the reign of the said Lord the King that now is, in the par-

ish of St. Giles in the Fields, in the county of Middlesex, falsely, unlawfully, wickedly, seditiously, and traitorously did make, compose, and write, and cause to be made, composed, and written, a certain false, seditious, and traitorous libel; in which said false, seditious, and traitorous libel among other things is contained, as followeth in these English words, viz.: 'The power originally in the people of England is delegated unto the Parliament, he (the most Serene Lord, Charles II. now King of England, meaning) is subject unto the law of God, as he is a man to the people, that makes him a King, inasmuch as he is a King, the laws sets a measure unto that subjection, and the Parliament judges of the particular cases thereupon arising; he must be content to submit his interest unto theirs, since he is no more than any one of them in any other respect than that he is, by the consent of all, raised above any other. If he doth not like this condition, he may renounce the crown; but if he receive it upon that condition (as all magistrates do the power they receive) and swear to perform it, he must expect that the performance will be exacted, or revenge taken by those he hath betrayed.' And that in another place in the said false, seditious, and traitorous libel, among other things, these false, seditious, and traitorous English sentences are contained (that is to say), 'we may therefore change or take away Kings, without breaking any yoke, or that is made a yoke which ought not to be one: the injury is therefore in making or imposing, and there can be none in breaking it,' against the duty of his allegiance, against the peace of the said now Lord the King, his crown and dignity, etc., and against the form of the statutes in this case made and provided, etc."

How sayest thou, art thou guilty of this high treason whereof thou standest indicted, or not guilty?

Col. Sidney. My Lord, I find here a heap of crimes put together, distinct in nature one from another, and distinguished by law ; and I do conceive, my Lord, that the indictment itself is thereupon void, and I cannot be impeached upon it.

L. C. J. [Sir George Jefferies.] We are not to admit of any discourses, till you answer the question, whether you be guilty or not guilty ?

Att. Gen. [Sir Robert Sawyer.] If he will demur, my Lord, we will give him leave.

Sidney. I presume your Lordship will direct me, for I am an ignorant man in matters of this kind. I may easily be surprised in it. I never was at a trial in my life of anybody, and never read a law book.

L. C. J. Because no prisoner under your circumstances is to have counsel, but in special cases to be assigned in matters of law, the Court is bound by their oaths and duty of their places, that they shall not see any wrong done to you ; but the business we are to tell you now is, you are to plead guilty or not guilty, or demur, which is a confession in point of law.

Sidney. Under favor, my Lord, there may be indictments that are erroneous, and if they are erroneous and vicious, they are null, and ought not to be answered, etc.

Just. Withins. If you please to demur to it, you shall have liberty to make any exceptions.

Sidney. I do not demur ; it is only exceptions. I think in matters of life, a man may give his exceptions to the bill, and plead not guilty afterwards. I am sure in Sir Henry Vane's case, the Court said it, and offered him to do it ; that which, under favor, I hope to do.

L. C. J. You must plead or demur.

Sidney. My Lord, if I put in exceptions to the bill, I do not plead till those exceptions are over-ruled. This was in the case of Sir Henry Vane.

L. C. J. Sir, I must tell you, you must either plead or demur.

Sidney. My Lord, there are in this indictment some treasons or reported treasons, that may come within the statute of the 13th of this King, which is limited by time ; the prosecution must be in six months, and the indictment within three. Now, my Lord, if that this business here mentioned, be above six months before my commitment, or above three before the indictment, I think, under favor, I ought not to answer to these matters.

L. C. J. You are mistaken in the law. That will be saved when the fact comes to appear. If they allege the thing to be at a time, which, according to the allegation would maintain the indictment, and if upon the trial it appear otherwise, the Court is bound to take notice of it when you come to your trial ; but we are not bound to examine that before you have pleaded.

Sidney. My Lord, everybody will acknowledge, that there have been, or may be, vicious indictments. Now, if I plead to an erroneous indictment, and am acquitted, I may be indicted again. Bills of attainder have been upon errors in original indictments, as that of the Duke of Somerset. Now if there be here several things distinct in nature, and distinguished by law, that are put together, it is impossible to make a positive answer to any one of them. If any one should tell me, that I by myself, or by others, by sword or by pistol, conspired to kill the King, I can say I did it, or I did it not. If any one say I have levied war, and by several acts undertake to prove I have done it, I can say I have done it, or I have not. But here I do not find anything specified, or can tell upon what statute I am indicted. I pray I may see the record.

L. C. J. That we cannot do. You shall hear it read

again if you will; if you think it to be a void indictment, demur to it if you will.

Sidney. My Lord, I desire you to accept of this (showing a parchment).

L. C. J. What is it? Put in what plea you shall be advised; but if you put in a special plea, and Mr. Attorney demurs, you may have judgment of death, and by that you wave the fact.

Sidney. I cannot make any objection to the bill after I have pleaded not guilty, for I accept the bill thereby to be good.

L. C. J. If you can assign any matter of law, do. But, otherwise, what a strange kind of thing would it be? All criminals would say in all cases, I doubt whether the bill be good or bad. And after I have thus considered of it, I will plead. You are misinformed, and this the Court tells you, as a duty incumbent on them.

Just. Within. If you demur, and show what your causes are, we will assign you counsel.

Sidney. I desire you will not try me, and make me run on dark and slippery places; I do not see my way.

L. C. J. Do not apprehend yourself to be so, as if the Court would run you to any inconvenience. But they are bound to see the methods of justice preserved; they are those that you and all the King's subjects are bound to conform to. If any one of us were in the same condition, we must observe the same methods of law.

Cl. of Cr. Art thou guilty or not guilty?

Sidney. Then pray, my Lord, will you tell me this. Is it true, that a man, how vicious soever an indictment is, must answer or demur to it?

L. C. J. He must either answer or demur.

Sidney. Are there no exceptions to be admitted?

L. C. J. None ; and if you do not do the one or the other, judgment passes, as if you had pleaded.

Sidney. This is a plea.

Just. Withins. Will you stand by it ? Consider yourself and your life ; if you put in that plea, and Mr. Attorney demurs, if your plea be not good, your life is gone.

Sidney. Pray, my Lord, give me a day to consider of it.

L. C. J. No ; we must not introduce new forms or methods for anybody. The same case that is with you may be with other people.

Sidney. My Lord, I do not pretend to anything but what is law, and due to every man upon English ground. I should be very sorry to do that which may be hurtful.

L. C. J. You have the rule of the Court. You must do one or the other. Call him to it.

Sidney. I desire this may be read. (Showing the same parchment.)

L. C. J. It shall not be read, unless you put it in as a plea.

Att. Gen. I must do my duty. Mr. Williams exceeds his liberty ; he informs the prisoner several things.

Mr. Williams. I only said if it was a plea, put it in. Mr. Attorney can hear all I say. (Whereupon Mr. Williams was reprov'd by the Lord Chief Justice.)

Sidney. I only give it as an exception to the bill.

Cl. of Cr. Art thou guilty or not guilty ?

Sidney. If any one should ask me any particular thing, I should know how to answer.

L. C. J. He asks you a particular thing. It is the duty of the Court to pronounce judgment if you do not plead.

Sidney. Why, then, if you drive me upon it, I must plead.

L. C. J. I am sure there is no gentleman of the long-robe would put any such thing into your head. There was never any such thing done in capital matters.

Sidney. My Lord, I am there indicted for conspiring the death of the King ; I have not conspired the death of the King. I am there indicted for levying war ; I have not done that. I am indicted for having invited others, of another nation ; I have not done that, neither. I am there indicted for having written a seditious libel, to stir up the minds of the people against the King ; I have not written anything to stir up the people against the King.

L. C. J. We are not to hear all this ; you must plead as other people, or else in plain English we will pronounce sentence. We ought to give all men satisfaction that will be satisfied ; but if they won't be directed, we can't help that.

Sidney. My Lord, if you put me upon this inevitable necessity, it lies upon you ; I must plead then.

Cl. of Cr. Art thou guilty or not guilty ?

Sidney. Not guilty.

Cl. of Cr. Culprit, how wilt thou be tried ?

Sidney. By God and my country.

Cl. of Cr. God send thee a good deliverance.

L. C. J. If you be not guilty, I pray God you may escape.

Att. Gen. My Lord, will you please to appoint a day for his trial, that he may take notice of it now ?

L. C. J. What time would you have ?

Att. Gen. A week's time ; do you think that will be enough.

Sidney. No ; pray, my Lord, give me a fortnight's time.

Att. Gen. I will not oppose it.

Sidney. In the next place, I desire a copy of the indictment.

L. C. J. We cannot grant it by law.

Sidney. I desire you would please to give me counsel.

L. C. J. We cannot do it ; if you assign us any particular point of law, if the Court think it such a point as may be worth debating, you shall have counsel. But, if you ask for counsel, for no other reason than mere asking it, we must not grant it. The Court is bound to see that nothing is done against you, but what is according to the rules of law. I should be very loath to draw the guilt of any man's blood upon me.

Sidney. Has not everybody counsel ?

L. C. J. No.

Sidney. I have several points of law.

L. C. J. Tell us them.

Sidney. My Lord, will you oblige me that am an ignorant man, and confess myself so, upon hearing my indictment for things I know nothing of,—a long thing,—presently to raise a point of law.

L. C. J. It is not we that oblige you, Mr. Sidney, it is the law that obliges you. We are the ministers of the law ; the law says we are not to allow you counsel without making your objections, that the Court may understand whether it be fit ; the law says we may not allow you a copy of the indictment. Therefore, do not go away and say that we as men sitting here do impose upon you ; we sit here only to administer the justice of the nation.

Just. Withins. Sir, you will have a fortnight's time to consider of objections in law.

L. C. J. If you will have it read, you shall. Those things that you may have by law, God forbid but you should have the benefit of them.

Sidney. I desire, my Lord, to hear it read again.

Att. Gen. Would you have it read in Latin ?

Sidney. Yes, if you please ; I do understand a little Latin. (It was then read.)

Sidney. What is that statute ?

L. C. J. When you come to your trial, Mr. Attorney will tell you what statute he goes upon. And he may give in evidence any Act of Parliament that comprehends treason.

Sidney. Methinks he should say what statute he goes upon.

Just. Withins. Sir, would you have a new indictment ?

L. C. J. He must take notice of his trial this day fortnight. Lieutenant of the Tower, you may take the prisoner back again.

November 21.

Sidney. My Lord, when I was last here, before your Lordship, I desired a copy of my indictment, and I thought the law allowed it me. But being in a hurry, I was carried first to a tavern, then led through soldiers, and absolutely surprised. I could not give the reason why I thought the law allowed me a copy. My Lord, I was denied a copy, and therefore deprived of the benefit of a special plea I had designed to have put in. This would have been a great help to your Lordship and to me ; the denial of which has been of great prejudice. Now, my Lord, of that which I thought was law then, I think I can give a better testimony that it is so now upon the statute of 46 E., III, wherein it is expressed, that tout partes and tout gents, that is, all people shall have a copy of every record ; and it enumerates several matters, as well that against the King as other people. This is a general law still in force : my Lord Strafford had a copy, and the Lords in the Tower had copies of their indictments. And, under favor, I

think it was never more necessary than to me, there never having been, perhaps, a charge so long and so confused. Now, my Lord, I have a copy transcribed of this statute.

L. C. J. We remember the law very well. Mr. Sidney moved for a copy of the indictment, and the Court denied him then, and they still refuse him. And yet all this time we deny you nothing that is law. You shall have the right that becomes a subject in your condition. And we must tell you, that notwithstanding all that case, we ought not to have given you so much favor (perhaps in strictness) as we did. And because you did particularly take notice of the case of Sir Henry Vane last time, I will show you the Court were more indulgent to you than to that person. In Sir Henry Vane's case, by the opinion of all the judges, it was declared that no copy ought to be given, of the whole or any part of the indictment, except they showed matters of law. But your counsel since you went away, moved for a copy of the indictment read to you in Latin, which was denied in the case of Sir Henry Vane. And there is a later case known to most persons here. By the opinion of all the judges of England, a copy of the indictment was denied to my Lord Russell. Therefore, arraign him upon the indictment; we must not spend our time in discourses to captivate the people.

Sidney. Is not this a good law, my Lord? (Holding out a paper.)

L. C. J. You have the rule of the Court.

Just. Withins. Anything the law will allow you, you shall have; but I am sure, if you advised with your counsel, they must tell you the same thing.

The Clerk of the Crown then called the jury, and after several challenges the names were read.

L. C. J. Look you, gentlemen of the jury, there are

some gentlemen at the bar who, as we are informed, are apt to whisper to the jury. 'Tis no part of their duty; nay, 'tis against their duty; and therefore, gentlemen, if you hear any of them by you that offer to whisper or make comments in this cause, as you are upon your oaths, and I doubt not but will do your duty between the king and the prisoner, so I expect, if you hear the counsel say anything, you will inform the Court. Let us have no remarks, but a fair trial in God's name.

Sol. Gen. [Mr. Finch.] Pray call Mr. West.

Sidney. I pray one word, my Lord, before Mr. West be sworn. I have heard, my Lord, Mr. West hath confessed many treasons. I desire to know whether he is pardoned or no.

L. C. J. I don't know that.

Sidney. How can he be a witness then?

L. C. J. Swear him, for I know no legal objection against him. He was a good witness in my Lord Russell's trial.

Sidney. My Lord, if another did not except against him, 'tis nothing to me.

Mr. North. Pray give an account to the Court of what you know of a general insurrection intended in England.

Sidney. What he knows concerning me?

L. C. J. We will take care of that—that no evidence be given but what ought to be.

Sidney. Wherefore should he say anything, unless it be to me and my indictment?

L. C. J. Mr. Sidney, you remember in all the trials about the late Popish plot, that there was first a general account given of the plot in Coleman's trial, and so in Plunket's and others. I don't doubt but you remember it. And Sir William Jones, against whose judgment I believe you won't object, was attorney at the time.

North. Mr. West, what do you know of the general insurrection lately designed?

West. My Lord, I have had the honor to know Colonel Sidney several years, but I don't remember that I ever saw him from the time I came acquainted with any part of the conspiracy till the discovery that was at the council.

North. Pray give an account of what you know of the plot in general.

West. My Lord, in October last, Captain Walcot come to me and told me that my Lord Shaftesbury had designed an insurrection in November. I used some arguments to dissuade him from it; but a little afterwards he came and told me the thing was wholly disappointed, and then it went off, and my Lord Shaftesbury went for Holland. Colonel Rumsey afterwards, about Christmas, said there were some lords and gentlemen intended to make an insurrection. The persons were the Duke of Monmouth, my Lord of Essex, my Lord Howard, my Lord Russell, the prisoner at the bar, and Mr. Hambden, Jr. After some time he told me they had altered their measures, and were resolved not to enter upon an insurrection in England till they had a concurrency in Scotland. Afterwards I was not privy to anything else, but what I had the report from Mr. Nelthorp and Mr. Ferguson. Mr. Nelthorp told me the prisoner had said—

Sidney. My Lord, I am very unwilling to interrupt the gentleman—

L. C. J. You must not interrupt the witness. Go on, sir.

West. Mr. Nelthorp told me the prisoner at the bar had sent Aaron Smith into Scotland, and given him a sum of money to bear his charges, and sent letters to some Scotch gentlemen to invite them to town. The

letter bore a cant of settling some business in "Carolina"; but the business was coming up about the insurrection. After this Mr. Smith returned, and some Scotch gentlemen with him; and soon after Mr. Ferguson gave an account of that affair, and said the Scotch proposed, if they might have thirty thousand pounds in ready money, they would undertake to make an insurrection in Scotland, without the concurrence of England. He said this proposal was agreed to, and money would be soon ready; and he said that Shepherd would return the money. That the arms were ready bought, and my Lord of Argyle would go into Scotland and head the Scots. He told me when things were thus settled some difference arose about raising the money; and at last he told me my Lord Gray did offer to raise ten thousand pounds out of his own estate if the rest would pay their proportion. Then the Scots came down to less, but they would not be complied with. The places for the rising were Bristol, Taunton, York, Chester, Exeter, London. That there had been some debates whether they should begin at London or the other places, and at last it was resolved they should begin at London, with the rest of the places.

My Lord, this was the account I had of the matter, in general, of Mr. Ferguson, but he said they were disappointed. Afterwards he told me the prisoner at the bar and Major Wildman were very instrumental in working of it off, because they could not agree upon the declaration to be made upon the insurrection. The English were for a commonwealth; but the Scotch gentlemen answered fairly, it might come to it in time, but the noblemen there would not agree to it at present. As to the prisoner, in particular, I know nothing, and did never speak with him till since the discovery.

Attorney General. Colonel Rumsey,—sworn.

North. Pray, sir, will you give the Court an account of what you know of any insurrection intended, and how they designed to carry it on ?

Col. Rumsey. The latter end of October, or beginning of November, I was desired by my Lord Shaftesbury to go to Mr. Shepherd's, to know of the gentlemen that were met there what was done about the rising intended at Taunton, and I had their answer that Mr. Trenchard had failed them, and that it must cease for that time. That was all at that time.

Sol. Gen. What else do you know of any insurrection afterwards.

Col. Rumsey. After that we had several meetings at Mr. West's chamber, where we had divided the city into twenty parts, and seven parts Mr. Goodenough had brought an account of; the other thirteen he said nothing of, for he had not spoken with those that were to tell him how many men they would afford. There was there Captain Walcot, Mr. West, the two Goodenoughs, Mr. Borne, Mr. Wade, and myself.

L. C. J. What was the result of those debates ?

Col. Rumsey. To see what number of men they could produce in the city for the insurrection.

L. C. J. Was there a rising designed ?

Col. Rumsey. Yes.

L. C. J. And did these people meet ?

Col. Rumsey. There was no time set.

Sol. Gen. When was the meeting ?

Rumsey. There were several meetings in March, April, and May.

Sol. Gen. After the meeting at Shepherd's ?

Rumsey. Yes, a great while. It ceased, I think, six weeks or three months.

L. C. J. Whom did you meet with at Mr. Shepherd's ?

Rumsey. There was the Duke of Monmouth, my Lord Grey, my Lord Russell, Sir Thomas Armstrong, Mr. Ferguson, and Mr. Shepherd.

Sol. Gen. Whom did you expect should head this army ?

Rumsey. That was never said anything of.

Att. Gen. Who were to manage the rising ?

Rumsey. We that met there.

Att. Gen. Had you no expectation of great men ?

Rumsey. Mr. West told me and Mr. Goodenough that there was a council, which were the Duke of Monmouth, my Lord Essex, my Lord Howard, Colonel Sidney, Mr. Hambden, and my Lord Russell : there were six.

L. C. J. What did he tell you of those six ?

Rumsey. He told me they were managing a business with Scotland.

L. C. J. A business ? Pray speak plain—tell all you know.

Rumsey. For the insurrection.

L. C. J. Say so, then ; we know nothing of the business you were about.

Col. Rumsey. My Lord, Mr. West had that discourse with my Lord Howard ; I never had. He is more fit to speak to that than me.

L. C. J. Speak of your own knowledge and no more.

Jones. After the death of my Lord Shaftsbury, who were the managers, and were to carry it on ?

Rumsey. I told you Mr. West, and Mr. Goodenough did tell me the Duke of Monmouth, my Lord Essex—

Att. Gen. He told you so before. Do you know there was an insurrection then intended ?

Rumsey. Yes, because we met towards the management of it ; the company that met in Mr. West's chamber, and other places.

Att. Gen. What discourse had you with Mr. Ferguson about it ?

Rumsey. Not about those gentlemen.

North. The next thing we shall show, shall be, that the Scotchmen came to town.

Sidney. My lord, I must ever put you in mind, whether it be ordinary to examine men upon indictments of treason concerning me that I never saw nor heard of in my life ?

L. C. J. I tell you all the evidence does not affect you, and I tell the jury so.

Col. Sidney. But it may prepossess the jury.

Mr. Keeling sworn.

Att. Gen. I ask you, in general, what you know of the rising to have been last spring ?

Keeling. My lord, it was some time last summer Mr. Goodenough came to me, and brought me three papers numbered on the back side ; I asked him to what end he delivered them me ? He told me one was for myself, and I could deliver the other two to whom I could trust in the two divisions. I asked him, what was the design ? He said to raise men ; says I, do you design a general insurrection ? He said if he did not, if the king was taken off, this would do well ; for then the people would know how to have recourse to a formidable body. And I have heard him say, that Colonel Sidney, whom I don't know, had a considerable part in the management of that affair.

Att. Gen. We charge him with conspiring, and there must be confederates in the case. Now then we come to the prisoner ; we will call my Lord Howard, that was one of the persons that did consult.

Lord Howard sworn.

Att. Gen. Pray acquaint my lord and the jury of your

knowledge of what transactions there have been with the prisoner about this affair of the general rising.

L. Howard. Truly, my lord, in the entering of the evidence I am about to give, I cannot but observe what a natural uniformity there is in truth. For the gentlemen that have been before have so exactly instanced in every particular with what I have to say, that two tallies could not more exactly fall into one another, though I confess I had not seen their faces till the plot broke out, for some months before.

My lord and gentlemen of the jury, about the middle of January last, it was considered by some of us that met together, that it was very necessary and expedient to an enterprise that had been long in hand, and fallen flat then, that it should be revived by some consult or cabal that should be set up to give life to it, and governance to the motions of it. The first (for aught I know) movers of this, were the Duke of Monmouth, the gentleman at the bar, and myself; and there we did agree that we should bethink ourselves of some few, we were willing it should not exceed five, at the most seven. This agreement being at first between us three. I remember the Duke of Monmouth undertook to engage my Lord Russell and my Lord Salisbury; and this gentleman, Colonel Sidney, for my Lord of Essex and Mr. Hambden; and these being put together, did presently constitute a little cabal, of as great a number as was intended. This being settled among them, it was within a few days after, I can't certainly tell when, but between the middle and latter end of January, that I was told that the persons had agreed to enter into this conjunction of councils; and in order to that, they had appointed a meeting at Mr. Hambden's house, to which I was invited. This, in time, was between the middle and latter end of January, but I can't tell exactly. When we came

there, there were all those gentlemen I before named. It was at Mr. Hambden's house, which ranges on the same row with Southampton House ; and being met, Mr. Hambden, I suppose, did think it most properly belonged to him to take upon him the part, as it were, to open the sessions ; that was, to give us a little account of the reason, end, and intention of that meeting : in which discourse he took occasion to recapitulate some design that had been before chiefly carried on by Lord Shaftsbury, before this time dead ; and also took notice of the ready disposition and inclination of the minds of men to go on with it ; and did give one instance of his judgment of it, that it being a design communicated to so many, it had not been so much as revealed, or a murmur or a whisper gone about it ; from whence he took occasion to tell us, that it was absolutely necessary for the future, that there should be some council that should be as a spring, a little to guide and govern the motions of the rest, for that were there divers things to be taken care of, which if not taken care of by particular persons, would surely miscarry. This was the substance of the prologue and introduction he made. From hence he made a transition to some particular things that he thought were most principally to be taken care of. And though it is impossible for me to remember the order and method in which we discoursed, or who said this or that, but that which the sense of all resulted to was this : that since we did not come prepared for it, we should consider what were the things which would hereafter challenge our particular care ; that was, the time when, the places where, and the persons by whom these things should be carried on. This led into some particular discourse concerning some of these heads for the time ; that it should be shortly, lest the minds of men should • chill ; and then as to the place where, whether in city or

country, or both jointly. In all these some opinions were given, but not settled to any resolution, but they were committed to our thoughts to be digested afterwards. But these being the things that every one was to take upon his thoughts, there was this pre-requisite to the undertaking, and that was to consider what magazines were to be got; and that led to another particular, which was, with what they should be gotten, and that was money; and thereupon was propounded a considerable sum to be raised; and, as I remember, the sum propounded by the Duke of Monmouth was twenty-five or thirty thousand pounds. And then it was considered how it should be raised without drawing observation or jealousy. These are only the heads that were then agreed on, thereafter to be better considered. But the present resolution that was taken, was, that before any procedure was made in any of these things, or any advance towards the undertaking, the first thing to be considered was, how to make a coalition of councils between Scotland and what we were doing here; and for that purpose we should bethink ourselves of some fit person to be sent thither, to unite us into one sense and care. This is as much as occurs to my memory upon that meeting. About a fortnight or three weeks after, which I suppose carried it to the middle of February next, we had another meeting, and that was at Southampton House at my Lord Russell's, and there were every one of the same persons; and when we came there, there happened to fall in a discourse which I know not how it came in, but it was a little warmly urged, and thought to be untimely and unreasonable; and that I remember was by Mr. Hambden, who did tell us that having now united ourselves into such an undertaking as this was, it could not but be expected but that it would be a question put to many of us: to what end •

all this was ? where it was intended to terminate ? into what we intended to resolve ? That these were questions he met with, and, it was probable, every one had, or would, meet with from those persons whose assistance we expected ; and that if there was anything of a personal interest designed or intended, that there were but very few of those, whose hearts were now with us, but would fall off ; and therefore since we were upon such an undertaking, we should resolve ourselves into such principles as should put the properties and liberties of the people into such hands as it should not be easily invaded by any that were trusted with supreme authority of the land ; and it was mentioned to resolve all into the authority of the Parliament. This was moved by him, and had a little harshness to some that were there ; but yet, upon the whole matter, we generally consented to it, that it was nothing but a public good we all intended. But then after that, we fell to that which we charged ourselves with at the first meeting, and that was concerning sending into Scotland, and of settling an understanding with my Lord of Argyle ; and in order to this it was necessary to send a messenger thither to some persons, whom we thought were the most leading men of the interest in Scotland ; this led us to the insisting on some particular persons : the gentlemen named were my Lord Melvin, Sir John Cockram, and the Campbells. I am sure it was some of the alliance of my Lord of Argyle, and I think of the name. As soon as this was propounded, it was offered by this gentleman, Colonel Sidney, that he would take care of the person ; and he had a person in his mind that he thought a very fit man to be trusted ; he named Aaron Smith, who was known to some of us, who thought him a proper person. This is all that occurs to me that was at the second meeting, and they are the only consults that I was at.

Att. Gen. What was he to do ?

L. Howard. There was no particular deed for him, more than to carry a letter. The Duke of Monmouth undertook to bring my Lord Melvin hither, because he had a particular dependence upon him, and I think some relation to his lady ; but to Sir John Cockram there was a letter to be sent under the disguise of carrying on some business of the plantation in Carolina. This letter I suppose was writ by my Lord Russell (though I know it not) for he was personally known to my Lord Russell, and I do not know that he was known to any of us. About three weeks after this, then, he was dispatched I suppose.

Att. Gen. To what purpose were these gentlemen to come up ?

L. Howard. These were to acquaint us how they found Scotland tempered, and what opportunities or advantages there were or might be of putting them into a commotion, and how men might be raised, and how they would fall under Argyle, and also to keep time and place with us. After this I was with Colonel Sidney when he was going into London, and he took out several guineas, I cannot tell how much it was, I suppose they might be about sixty, and put them into his pocket, which he said were to give Aaron Smith ; whether he gave them or no, I do not know ; after that he was sent.

Att. Gen. Who told you so ?

L. Howard. Col. Sidney, for I was enquiring of him ; and he said he had not heard of him in three weeks, or but once, when he was about Newcastle. After this, I had occasion that called me into the country, and there I was. Some time after that I went to the bath ; and this is all the account I can give.

Sol. Gen. Do you know that Aaron Smith did go ?

L. Howard. I know nothing but by hearsay. Col.

Sidney told me he was gone, and was upon the road, and he heard from him about Newcastle.

L. C. J. Did you understand by the discourse after he was gone, that he went in pursuance of that debate?

L. Howard. Yes, my Lord, that was the whole end of his going.

Just. Withins. I think you say that gentleman (pointing to Sidney) undertook to send him?

L. Howard. Yes, he did.

L. C. J. Will you ask him any questions?

Sidney. I have no questions to ask him.

Att. Gen. Silence—you know the proverb. The next step is to show you, my Lord, that these persons came up immediately after Aaron Smith went down thither; and, according to that which was said to be the shadow and pretence of their coming hither, they pretended they came about Carolina business. Sir Andrew Foster and Mr. Blathwaite.

Sir Andrew Foster sworn.

Att. Gen. Pray, sir, give an account what Scotch gentlemen came up lately.

Sir Andrew Foster. My Lord, about the end of the spring, or beginning of summer, as I remember, these gentlemen, Sir John Cockram, and Commissioner Monro, and the two Campbells, father and son, came up hither. I did not see the father at all, but I saw the son the day of Lord Russell's trial; but the other two, I think, I saw a little before the discovery of the plot.

Att. Gen. What did they pretend they came about?

Sir Andrew Foster. They pretended they came to make a purchase in Carolina, and I saw their commission from the person said to be concerned in that design.

L. C. J. Of whom do you speak?

Sir Andrew Foster. Sir John Cockram and Commissioner Monro.

Att. Gen. As soon as the rumor came of the plot, what became of those gentlemen?

Sir Andrew Foster. Sir John Cockram absconded; Monro did not; the Campbells were seized, changing their lodging from place to place.

Mr. Atterbury sworn.

Att. Gen. Will you give my Lord and the Jury an account of what you know of these Scotchmen, their absconding and lying hid.

Atterbury. My Lord, upon the latter end of June, or the beginning of July it was, I was sent for into London upon the discovery of some Scotch gentlemen that lay about Blackfriars; and when I came down there, there was the Common Sergeant and some others had been there before me, and found them making an escape into a boat.

Att. Gen. Who were they?

Atterbury. Sir Hugh Campbell and Sir John Cockram, and one that was committed to the Gatehouse by the council as soon as brought hither.

Att. Gen. We shall end here, my Lord. How long had they been in town?

Atterbury. Some little time.

Att. Gen. We have done with this piece of our evidence. Now, to show that while this emissary was in Scotland, at the same time the Colonel was writing a treasonable pamphlet, I will call you the witnesses. It is all of his own writing.

Att. Gen. Sir Philip Lloyd, pray will you look upon those papers, and give my Lord and the Jury an account where you found them.

Sir Phil. Lloyd. I had a warrant, my Lord, from the secretary by the King and Council, to seize Mr. Algernon Sidney's papers, and pursuant to it, I did go to his house, and such as I found there I put up. I found a

great many upon the table, amongst which were these ; I suppose it is where he usually writes ; I put them in a pillow-bear I found in the house, and that in a trunk ; I desired Col. Sidney would put his seal upon them, that there should be no mistake ; he refused, so I took my seal, and sealed up the trunk, and it was carried before me to Mr. Secretary Jenkins' office. When the committee sat, I was commanded to undo the trunk, and I did so and found my own seal upon it.' And I took the papers out of the bag I put them into before.

L. C. J. Was Colonel Sidney present when you seized these papers ?

Sir Phil. Lloyd. Yes.

Att. Gen. Are these some of those papers ?

Sir Phil. Lloyd. Yes, I verily believe it.

Att. Gen. In the next place, I think we have some papers of his particular affairs which will prove his hand. Call Mr. Shepherd, Mr. Cooke, and Mr. Carey.

Mr. North. Sir Philip Lloyd, when were they seized ?

Sir Phil. Lloyd. Towards the latter end of June, my Lord.

Furyman. Which June ?

Sir Phil. Lloyd. Last June.

Mr. Shepherd sworn.

Att. Gen. Pray, will you look upon those writings. (Showing the libel.) Are you acquainted with Colonel Sidney's hand ?

Shepherd. Yes, my Lord.

Att. Gen. Is that his hand-writing ?

Shepherd. Yes, sir, I believe so. I believe all these sheets to be his hand.

Att. Gen. How came you to be acquainted with his hand ?

Shepherd. I have seen him write the indorsement upon several bills of exchange.

Mr. Cary sworn.

Sidney. My Lord, I desire you would please to consider this, that similitude of hands can be no evidence.

L. C. J. Reserve yourself till anon, and make all the advantageous remarks you can.

Att. Gen. Have you had any dealing with him ?

Cary. I never saw him write, to my knowledge, more than once in my life, but I have seen his indorsement upon bills, and it is very like that.

L. C. J. Do you believe it his hand, as far as you can guess ?

Cary. My Lord, it is like what came to me for his hand-writing.

L. C. J. And you believe it to be his hand ?

Cary. Yes.

Mr. Cooke sworn.

L. C. J. What say you, Mr. Cooke.

Cooke. My Lord, I did never see Col. Sidney write, but I have seen several notes that have come to me with indorsement of his name, and we have paid them, and 'tis like to this.

L. C. J. And you were never called to account for mispayment.

Cooke. No, my Lord.

Att. Gen. I pray it may be read. We will read as much as is necessary to prove the indictment.

Col. Sidney. I pray it may be all read.

L. C. J. Mr. Attorney must have what part he desires read, and you shall have what part you will read afterwards.

Col. Sidney. I desire it may all be read.

Att. Gen. Begin there : Secondly, There was no absurdity in this, because it was their own case.

Clerk reads :

Secondly,—There was no absurdity in this, though it

was their own case ; but to the contrary, because it was their own case ; that is, concerning themselves only, and they had no superior. They only were the competent judges, they decided their controversies, as every man in his own family doth, such as arise between him and his own children and servants. This power hath no other restriction, than what is put upon it by the municipal law of the country, where any man, and that hath no other force, than as he is understood to have consented to it. Thus, in England, every man (in a degree) hath a right of chastising them ; and in many places (even by the law of God) the master hath a power of life and death over his servant ; it were a most absurd folly to say, that a man might not put away, or in some place kill, an adulterous wife, a disobedient son, or an unlawful servant, because he is party and judge, for the case doth admit of no other, unless he hath abridged his own right by entering into a society where other rules are agreed on, and a superior judge constituted, there being none such between king and people. That people must needs be the judges of things happening between them and him whom they did not constitute, that they might be great, glorious, and rich ; but that they might judge them, and fight their battles ; or otherwise do good unto them, as they should direct. In this sense, he that is *singulis* Major, and ought to be obliged by every man, in his just and lawful commands, tending to the public good ; and must be suffered to do nothing against it, nor in any respect more than the law doth allow.

For this reason Bracton saith, that the King hath three superiors, to wit : Deum, Legem, and Parliament ; that is, the power, originally in the people of England, is delegated unto the Parliament. He is subject unto the law of God, as he is a man, to the people that makes him a king, inasmuch as he is a king. The law sets a meas-

ure unto that subjection, and the Parliament judges of the particular cases thereupon arising. He must be content to submit his interest unto theirs, since he is no more than any one of them in any other respect than that he is, by the consent of all, raised above any other.

If he doth not like this condition he may renounce the crown ; but if he receive it upon that condition (as all magistrates do the power they receive), and swear to perform it, he must expect that the performance will be exacted, or revenge taken by those that he hath betrayed.

If this be not so, I desire to know of our author how one or more men can come to be guilty of treason against the *King*, as *Lex facit ut sit Rea*. No man can owe more unto him than unto any other, or be unto every other man by any rule but the law ; and if he must not be judge in his own case, neither he, nor any other by power received from him, would ever try any man for an offence against him or the law.

If the King, or such as he appoints, cannot judge him, he cannot be judged by the ways ordinarily known amongst us. If he, or other by authority from him, may judge, he is judge in his own case, and we fall under that which he accounts the utmost of all absurdities. If a remedy be found for this, he must say that the King, in his own case, may judge the people, but the people must not judge the King, because it is theirs ; that is to say, the servant entertained by the master may judge him, but the master must not judge the servant, whom he took only for his own use. The magistrate is bound by no oath or contract to the people that created him, but the people are bound to its own creature, the magistrate.

This seems to be the ground of all our author's follies : he cannot comprehend that magistrates are for or by the

people, but makes this conclusion, as if nations were created by or for the glory or pleasure of magistrates, and affect such a piece of nonsense. It ought not to be thought strange if he represent, as an absurd thing, that the headless multitude may shake off the yoke when they please. But I would know how the multitude comes under the yoke? it is a badge of slavery. He says that the power of kings is for the preservation of liberty and property. We may therefore change or take away kings without breaking any yoke, or that made a yoke which ought not to be one; the injury, therefore, is in making or imposing, and there can be none in breaking it.

That if there be not an injury, there may, perhaps, be an inconvenience. If the headless multitude may shake off the yoke, I know not why the multitude should be concluded to be headless. It is not always so. Moses was head of the multitude that went out of Egypt. Othniel led them against the King of Mesopotamia; under the conduct of Phoebeidas they obtained a victory against the Moabites; they had the like success under Lamger, Barak, Gideon, Jephtha, Samuel, Samson, and others, against the Canaanites, Midianites, Philistines, and others. The multitudes that opposed Saul and Ishbosheth had David for its head, and the ten tribes that rejected Rehoboam chose unto themselves Rehoboam; the Athenians rising against the Thirty Tyrants had Thrasylbulus; those that drave from Thebes were conducted by Pelopidas; when the Romans drave out the Tarquins, they chose Brutus and Publicola, and they destroyed the Decemviri under Horatius and Valerius. All the multitudes that afterwards revolted from them, under Mauritius, Telerius, Spartanus, and others, were not headless; and we know of none that were, but all either found heads or made them. The Germans set up Arminius; the Britons, and others in later times, the Cartinians,

that rose against Peter the Cruel, had the Lord Detracta Mara.

The French, when they grew weary of the corrupted races of Pharamond and Pepin, had the same Pepin and Hugh Capet. The Scots, when they slew James III., had his son to be their head; and when they deposed and imprisoned Queen Mary, the Earl of Murray and others supplied the want of age that was in her son. And in all the revolutions we have had in England the people have been headed by the Parliament, or the nobility and gentry that composed it; and when the kings failed of their duties by their own authority called it. The multitude, therefore, is not ever headless, but doth either find or create heads unto itself, as occasion doth require; and whether it be one man, or a few, or more, for a short or a longer time, we see nothing more regular than its motions. "But they may," saith our author, "shake off the yoke"; and why may they not if it prove uneasy or hurtful unto them? Why should not the Israelites shake off the yoke of Pharaoh, Jabin, Sisera, and others, that oppressed them?

When pride had changed Nebuchadnezzar into a beast, what should persuade the Assyrians not to drive him out amongst beasts, until God had restored unto him the heart of a man? When Tarquin had turned the regal monarchy of Rome into a most abominable tyranny, why should they not abolish it? And when the Protestants of the Low Countries were so grievously oppressed by the power of Spain, under the proud, cruel, and savage conduct of the Duke of Alva, why should they not make use of all the power God had put into their hands for their deliverance? Let any man who sees the present state of the provinces that then united themselves, judge whether it is better for them to be as they are, or in the condition unto which his fury would

have reduced them, unless they had, to please him, renounced God and their religion. Our author may say they ought to have suffered; the King of Spain, by their resistance, lost those countries; and that they ought not to have been judges in their own case. To which I answer, that by resisting, they laid the foundation of many churches, that have produced multitudes of men, eminent in gifts and graces, and established a most glorious and happy commonwealth, that hath been since its first beginning the strongest pillar of the Protestant cause now in the world, and a place of refuge unto those who, in all parts of Europe, have been oppressed for the name of Christ; whereas they had slavishly, and, I think I may say, wickedly, as well as foolishly, suffered themselves to be butchered if they had left those empty provinces under the power of anti-Christ, where the name of God is no otherwise known than to be blasphemed.

If the King of Spain desired to keep his subjects, he should have governed them with more justice and mercy. When, contrary unto all laws both human and divine, he seeks to destroy those he ought to have preserved, he can blame none but himself if they deliver themselves from his tyranny. And when the matter is brought to that, that he must not reign, or they over whom he would reign must perish, the matter is easily decided, as if the question had been asked in the time of Nero or Domitian, whether they should be left at liberty to destroy the best part of the world, as they endeavored to do, or it should be rescued by their destruction. And as for the people's being judges in their own case, it is plain they ought to be the only judges, because it is their own, and only concerns themselves.

L. C. F. The argument runs through the book, fixing the power in the people.

Att. Gen. § 35.

Cl. of Cr. The general revolt of a nation from its own magistrates can never be called rebellion.

Att. Gen. § 37.

Cl. of Cr. The power of calling and dissolving Parliaments is not in the King.

Att. Gen. So much we shall make use of. If the Colonel please to have any other part read to explain it, he may.

Then the sheets were shown to Colonel Sidney.

Sidney. I do not know what to make of it. I can read it.

L. C. J. Ay, no doubt of it; better than any man here. Fix on any part you have a mind to read.

Sidney. I do not know what to say to it—to read it in pieces thus.

L. C. J. I perceive you have disposed them under certain heads. To what heads will you have read?

Sidney. My Lord, let him give an account of it that did it.

Att. Gen. My Lord, we will not delay Colonel Sidney from entering on his defence, only we have this piece of evidence to give further: one of his accomplices was my Lord Russell. We will give in evidence his conviction. We will only ask my Lord Howard: Was your lordship sworn as a witness at the trial of my Lord Russell?

L. Howard. Yes.

Att. Gen. Whether or no, when you met, were there in those debates any reflections upon the King, that he had broken his duty?

L. Howard. Not that I remember.

Att. Gen. Why would you rise?

L. Howard. If you mean upon the misgovernment, not upon the King?

Att. Gen. Ay.

L. Howard. Yes, and principally and chiefly that

which we thought was the general disgust of the nation, the imposing upon the city at that time.

Just. Withins. That was complained of at that time ?

L. Howard. Yes, my Lord ; we took it all along to be the chief grievance.

L. C. J. Have you any more witnesses ?

Att. Gen. Only the record.

Sol. Gen. I know there is no time misspent to make things clear. If the jury have a mind to have the words read again—

L. C. J. If they have a mind, let it.

The record of the conviction of Lord Russell was read.

L. C. J. What will you go to next, Mr. Attorney ?

Sol. Gen. We have done, unless the jury desire to have the words of the libel read again. (Did not.)

Sidney. My Lord, I desire to know upon what statute I am indicted.

Att. Gen. My Lord, I will give as plain an answer : you are indicted upon the old statute of 25 Edw. III.

Col. Sidney. Then I desire to know upon what branch of that statute ?

Att. Gen. Why, I will acquaint you ; 'tis upon the first branch of that statute—for conspiring and compassing the death of the King.

Col. Sidney. I say, my Lord, that since I am indicted upon that statute, I am to take notice of no other. I am indicted for conspiring the death of the King, because such a paper is found in my house ; under favor, I think, that can be nothing at all to me. For, though Sir Philip Lloyd did ask me whether I would put my seal to it, he did not ask me until he had been in my closet, and I knew not what he had put in, and so I told him I would not do it. Then come these gentlemen upon similitude of hands. My Lord, we know what similitude of hands in this age is. One told me within these two

days that one came to him and offered to counterfeit any hand he should show him in half an hour. So, then, my Lord, I have nothing to say to these papers. Then, for point of witness, I cannot be indicted, much less tried as condemned, on 25 Edw. III; for by that act there must be two witnesses to that very branch unto which the treason does relate, which must be distinguished; for the levying of war and conspiring the death of the King are two distinct things—distinct in nature and reason—and so distinguished in the statute. And, therefore, the conspiring the death of the King is treason, and the other not. 1 Edw. VI. 12, 5 Edw. VI. 11, does expressly say there must be two witnesses to either of these acts. Now here is my Lord Howard, speaks of six men, whom he calls a select council, and yet selected by no man in the world. I desire to know who selected my Lord Howard, who selected me? If they were selected by nobody, 'tis a bull to say they were a select council. If they were not selected, but erected themselves into a cabal, then they have either confidence in one another, or find they are almost equally able to assist in the design. Here is nothing of all this; these six men were strangers to one another. For my own part, I never spake with the Duke of Monmouth above three times in my life, and one time was when my Lord Howard brought him to my house, and cozened us both. He told the Duke I invited him, and he told me the Duke invited himself, and neither of them was true. Now, that such men as these are, hardly knowing one another, should presently fall into a great and intimate friendship, and trust and management of such a business as this, is a thing utterly improbable, unless they were mad. Now, I do find in my Lord Howard's deposition against my Lord Russell, that they were in prosecution of my Lord Shaftesbury's design; and yet he acknowl-

edges the Duke of Monmouth said he was mad, and he himself said so too. Now, whether my Lord Howard would have you think he was mad, because a madman cannot be guilty of treason, I cannot tell. My Lord Howard, in his last deposition at my Lord Russell's trial, fixed the two meetings, one about the middle of January, the other ten days after. Now he fixes one to be the latter end of January, the other in the middle of February. Then he makes it to be the prosecution of my Lord Shaftesbury's design. I do not find that anybody there had anything to do with my Lord Shaftesbury; for my part, I had not. I had not seen his face for two years. Then, my Lord, what I go upon is, whatever my Lord Howard is, he is but one witness. The law of God and the law of man, understood and taken by all men, does require two witnesses. Moses says so, so the Apostle the same after him, and Christ says the same, that every matter is to be established by two witnesses. There ought to be two witnesses to the same thing. Now, for one to come and tell a tale of a tub, of an imaginary council, and another of a libel, a paper written nobody knows when, is such a thing as you never can get over. But if the law of God be that there must be two witnesses to the same fact, there is an end of this matter; and under the judicial law, the penalty would be in this case to put a man to death. Now here are but two things, which, if allowed, nobody will be safe, for perjury. The one is to suffer men to give their testimony, one to one thing, and another to another, that the fraud cannot be discovered, and the other is to take away the punishment. Now the punishment is taken away in some measure; and do but take away the other point, whereby the fraud cannot be discovered, and then there is no defence to be made. That both witnesses should be to the same point, see the story of Susanna.

Two elders testified they saw her in the act of adultery. They were carrying her to death. Both of them said the same thing. Until they were taken asunder and examined, the fraud was not discovered ; and then one said she was under a tree on the right hand, and the other, under the tree on the left ; and she escaped, and they were punished. But now if you apply it to several facts, my Lord Howard may say what he pleases, and if another shall come with a supplemental proof, no justice can be had. But, my Lord, I desire this : if there be two witnesses to prove the conspiracy, and in that there were those matters done that are treason, I must answer to it ; but if there be not, I presume I need say nothing to it. If you do not allow it me, I desire counsel to argue it.

I have this to say concerning Lord Howard : He hath accused himself of divers treasons, and I do not hear that he has his pardon of any ; he is under the terror of those treasons, and the punishment for them ; he hath shown himself to be under that terror ; he hath said that he could not get his pardon, until he had done some other jobs, till he was past this drudgery of swearing ; that is, my Lord, that he having incurred the penalty of high treason, he would get his own indemnity by destroying others. This by the law of God and man, I think, destroys a man's testimony. Besides, my Lord, he is my debtor ; he owes me a considerable sum of money I lent him in time of his great necessity ; he made some covenants with me for the payment of that money, which he hath broken ; and when his mortgage was forfeited, and I might take the advantage the law gives me, he found a way to have me laid up in the Tower ; he is a very subtle man ; at my Lord Russell's trial he carried his knife, he said, between the paring and the apple ; and so this is a point of great nicety and cunning, at one

time to get his own pardon and save his money. When I was prisoner, he came to my house, and spoke with my servant, and said how sorry he was that I should be brought in danger upon this account of the plot, and there he, in the presence of God, with hands uplifted to Heaven, swore he did not believe in any plot, that it was a sham. He would have got my plate and other goods into his possession, and desired my man to place them there for safety. The next news was a warrant against my Lord Russell and me. He now again affirmed his belief in my innocence; that if I had known anything, I should have told it.

My Lord, I think it very material, that a whimsical imagination of a conspiracy, should not pass for a real conspiracy of the death of the King. Will you, my Lord, indict a man for treason, for scraps of paper found in his house, relating to an ancient paper, intended as innocently as anything in the world, and piece and patch this to my Lord Howard's discourse, to make this a contrivance to kill the King?

Here is a huge complication of crimes laid to my charge. These papers have no manner of coherence or dependence, upon any design. What man can be safe if the King's counsel may make such whimsical, groundless constructions?

The Solicitor-General then summed up the case.

The jury then withdrew, and in about half an hour's time brought in the verdict of *Guilty*.

He was beheaded on Tower Hill.

CHAPTER XVIII.

TRIAL OF DOCTOR HENRY SACHEVERELL, FOR HIGH CRIMES AND MISDEMEANORS,—BEFORE THE HOUSE OF PEERS, IN WESTMINSTER HALL, IN THE MONTHS OF FEBRUARY AND MARCH, 1709-10.

A COMPLAINT was made in the House of Commons on the 13th of December, 1709, of two printed sermons: the one entitled, "The Communication of Sin," preached at the Assizes at Derby, the 15th of August, 1709; and the other entitled, "The Perils of False Brethren, both in Church and State," preached before the Lord Mayor and Citizens, at the Cathedral of St. Paul's, on the 5th of November, 1709, by Henry Sacheverell, D.D., and several paragraphs thereof being read, it was resolved:

That the said sermons were malicious, scandalous, and seditious libels, highly reflecting on her Majesty and her Government, on the late happy revolution, and the Protestant succession, and both Houses of Parliament; tending to alienate the affections of her Majesty's good subjects, and to create jealousies and divisions amongst them.

The Doctor, being ordered to attend the House next day, was called and examined if he owned those sermons, which he did, and then withdrew: when a question being proposed, that Dr. Henry Sacheverell be impeached of high crimes and misdemeanors, it was thought proper to call him again first, and demand if he had anything to offer to the House in his excuse. The Doctor said:

Mr. Speaker:—I am very sorry I am fallen under the

displeasure of this House : I did not imagine any expressions in my sermons were liable to such a censure as you have passed upon them. If you had been pleased to have favored me so far as to have heard me before you passed it, I hope I should have explained myself so as to have prevented it.

After which, the Doctor was ordered to withdraw ; and it was resolved to impeach him of high crimes and misdemeanors ; and Mr. Dolben accordingly carried up the impeachment to the Lords, acquainting them, that the Commons would, in due time, exhibit articles against him.

And the Doctor with his bookseller, Mr. Henry Clements, were taken into custody of the Serjeant-at-Arms ; and though the Doctor petitioned the Commons to be admitted to bail, they refused it : 79 ayes, 114 noes.

There were great debates in the House on bailing the Doctor ; some were of opinion they had no power to take bail ; others insisted they had a discretionary power ; while a third party said, if they had it in their power, the Doctor did not deserve so much indulgence ; others said, in favor of liberty, if they could, they ought to admit him to bail ; and that they could bail a prisoner they argued, from the equity and unreasonableness of the thing, that those that could commit, might bail him ; and produced two precedents, viz. : The case of Mr. Seymour, and that of the smugglers, impeached for high crimes and misdemeanors ; in one of which, the persons impeached and committed by the House of Commons were admitted to bail ; in the other, the Commons, upon their petition, consented to bail them ; and they had been bailed, but the sureties made objections to the condition of their bonds, and would not submit to it. Besides, it was urged, that this case was in itself bailable ; and so agreed by all gentlemen ; and that the Doctor's

hardship might be the greater, because it was probable, if the Commons did not bail him, he must lie in custody, when bailable by law, till after the recess of Parliament ; for the articles not being exhibited to the Lords against him, it was thought the Lords would not take him out of the custody of the Commons, and commit him upon a general charge ; and till they committed him, they could not bail him ; this was his case ; for, upon application to the Lords, they refused to commit him, till the Commons had exhibited their articles. The Lords said, the Commons might never exhibit any, and they would not do so unreasonable a thing, as to commit any one on a general charge ; and so he lay a prisoner, by the commitment of the House of Commons, in a case bailable by law (and for which there were precedents of the Commons admitting to bail), from December the 14th to January the 12th.

Mr. Dolben carried up the articles to the Lords on the 12th of January, and the Serjeant-at-Arms, at the same time, delivered the Doctor to the Deputy Gentleman Usher of the Black Rod ; and the Doctor petitioning the House of Peers to be admitted to bail, and that he might have counsel assigned him ; and a copy of the articles ; their Lordships granted all his requests ; and on the 25th of January, Dr. Sacheverell attended the House of Lords, and delivered in his answer to the articles of impeachment against him ; which their Lordships having communicated to the Commons, they sent up their reply on the 3d of February : and the next day the Lords sent a message to the Commons, acquainting them that they had appointed the Thursday following, for the trial of Dr. Sacheverell, at the Bar of the House : but the Commons resolving afterwards, that they would be present at the trial as a committee of the whole House, and acquainting their Lordships with it, and desiring convenient ac-

commodations might be made for them ; the House of Peers ordered the Lords, with white staves, to move her Majesty to give orders for preparing a place in Westminster Hall for the trial ; and her Majesty thereupon gave orders for preparing a court in Westminster Hall ; which taking up some time, the Lords put off the trial till Monday, the 27th of February.

The Commons thereupon appointed the gentlemen, who had been of the committee for drawing up articles against the doctor, to be their managers at the trial, viz. : Sir John Holland, Comptroller of her Majesty's household, Mr. Secretary Boyle, Mr. Smith, Chancellor of the Exchequer, Sir James Montague, Attorney-General, Robert Eyre, Esq., Solicitor-General, Robert Walpole, Esq., Treasurer of the Navy, Sir Joseph Jekyll, Mr. Lechmere, Mr. Dolben, Sir Thomas Parker, Sir Peter King, Recorder of the city of London, Sir John Hawles, the Lord William Paulet, the Lord Coningsby, Mr. Spencer Cowper, Mr. Thompson, Lieutenant-General Stanhope, Lieutenant-General Mordaunt, Mr. Compton, and Sir David Dalrymple.

On Monday, the 27th of February, being the day appointed for the trial, the lords came down from their House about noon, to the court erected in Westminster Hall ; and the Commons having taken the places provided for them, the sergeant-at-arms made proclamation for the doctor to appear and save his bail ; whereupon he came to the bar and kneeled ; his counsel, Sir Simon Harcourt, Mr. Dodd, Mr. Phipps, Mr. Dee, and Dr. Henchman, standing near him.

The Lord-Chancellor Cowper then commanded the doctor to rise ; and proclamation being made for the prosecutors to appear and make good their charge, the lord-chancellor acquainted the doctor that it was unnecessary to give him any directions for his defence, the



lords having assigned him counsel ; adding that they had also made an order for summoning his witnesses, and admitted him to bail on the first application, that he might be the better able to provide for his defence ; and that he had all the time he desired to prepare himself ; and ought ever to remember their lordships' indulgence to him.

Then the articles of impeachment were read ; the preamble whereof recites :

That the late King William, when Prince of Orange, undertook, with an armed force, a glorious enterprise, for delivering the kingdom from popery and arbitrary power ; in which he was joined and assisted by many subjects of this realm, well affected to their country ; and that God being pleased to crown it with success, the late happy revolution took effect, and was established ; and whereas the said glorious enterprise had been approved by several acts of Parliament, declared to be necessary, and that the same ought to be justified ; and the happy consequence of it were the enjoyment of God's true religion, and the laws and liberties of the kingdom ; the uniting the subject, in interest and affection, by a toleration of dissenters, the preservation of her majesty, the succession of the crown in the Protestant line, and the union of the two kingdoms ; and whereas the Lords and Commons, did by their address on the 17th of December, 1705, lay before her Majesty their resolution, that the Church of England, which was rescued from the extremest danger by King William III. was, by God's blessing, under her Majesty in a most safe and flourishing condition ; and that whoever goes about to insinuate that the church is in danger under her majesty's administration, is an enemy to the queen, the church, and the kingdom ; and did beseech her majesty to take effectual measures for punishing the authors of

such reports, and her Majesty issued by proclamation accordingly; yet the said Henry Sacheverell had preached two sermons and printed them, with a wicked, malicious, and seditious intention to subvert her majesty's government and the Protestant succession; to defame her majesty's administration, to asperse the memory of his late Majesty, to condemn the revolution, arraign the resolutions of both Houses of Parliament, create jealousies and divisions among her Majesty's subjects, and incite them to sedition and rebellion.

ART. 1. That the said Henry Sacheverell, in his sermon preached at St. Paul's, doth suggest and maintain, that the necessary means used to bring about the revolution, were odious and unjustifiable. That his late Majesty, in his declaration, disclaimed the least imputation of resistance; and that to impute resistance to the revolution, is to cast black and odious colors upon his late Majesty, and the said revolution.

ART. 2. Was in substance, that he had suggested and maintained, that the toleration was unreasonable, and the allowance of it unwarrantable; and reflected on Archbishop Grindall.

ART. 3. Imported that he did falsely and seditiously suggest and assert, that the Church of England was in great peril and adversity under her Majesty's administration, contrary to the votes of both Houses.

ART. 4. That he did falsely and maliciously suggest, that her Majesty's administration, both in ecclesiastical and civil affairs, tended to the destruction of the constitution; and that there were men of characters and stations in church and state, who were false brethren; and did themselves undermine and betray, and encourage and empower others to undermine and betray the constitution; that, as a public incendiary, he fomented divisions, and excited her majesty's subjects to arms and violence; and

that his seditious suggestions might make the stronger impressions, he did wrest and pervert divers passages of holy scripture.

All of which they were ready to prove from the said sermons.

Then the doctor's answer was read, wherein he denies he preached or printed the said sermons with a malicious intent, as the preamble to the articles charges ; but says he was induced to print the Derby sermon at the request of the grand jury, who declared their approbation of it ; and the said Lord Mayor having expressed his liking of the sermon preached at St. Paul's, he did, at his request, cause that sermon to be printed and dedicated to him.

I. And in answer to the first article, he denies that he suggested that the necessary means used to bring about the revolution were odious and unjustifiable ; but on the contrary, endeavored to clear the revolution, and his late Majesty from the black and odious colors cast upon both.

That he could not find that he had given the least color for the accusation exhibited in this article, unless by his asserting " the utter illegality of resistance to the supreme power, upon any pretence whatsoever " ; for which assertion he had the authority of the Church of England in her homilies, ready to be produced ; and was advised that the said assertion was agreeable to, and warranted by the laws of the land, and divers acts of Parliament now in force ; and therefore hoped he should not suffer for asserting the doctrine of non-resistance to the supreme powers. But if this doctrine was declared erroneous, and he should suffer for asserting, he trusted that God would enable him to show his steady belief of this doctrine, by a meek and patient resignation to whatever should befall him on that account.

II. In answer to the second article, which charged him with maintaining that the toleration granted by law was unreasonable, and the allowance of it unwarrantable, he could not inform himself that a toleration had been granted; but admitted an act passed 1 W. and M., exempting their Majesties' Protestant subjects from the penalties of certain laws; which exemption he nowhere suggested to be unreasonable, or the allowance of it unwarrantable.

But he did indeed suggest it to be one part of the characters of a false brother, upon all occasions to defend toleration and liberty of conscience, and to excuse the separation, lay the fault upon the true sons of the church, for carrying matters too high.

As to his reflecting on Archbishop Grindall, he hoped he might be excused; but the archbishop had incurred the displeasure of so good and pious a princess as Queen Elizabeth, and was suspended till the day of his death for permitting innovations in the church. However, he hoped that no words spoken of an archbishop 120 years after he was dead, would amount to a high crime and misdemeanor.

III. To the third article, he answered that he denied he asserted that the Church of England was in danger under her Majesty's administration, or intended to arraign the vote of both Houses; but he acknowledged he had suggested that the church was in danger from our national sins, from vice and infidelity as it was declared to be by an act of Parliament, 9 and 10 W. III. And he conceived, since the passing of that act, the detestable crimes, for the suppressing whereof that act was made, were greatly increased.

IV. To that part of the fourth article which charges him with suggesting that her Majesty's administration tends to the destruction of the constitution, he answers,

He hath not mentioned her Majesty's administration, or her ministers, in either of his sermons ; and was so far from censuring it, that he had reckoned it among the inestimable blessings that were owing to our deliverance, commemorated on the 5th of November. That her Majesty, the good and pious relict of the royal family, sits now happily upon the throne of her ancestors ; and prays that God may long preserve her, for the comfort and support of the church ; and professes that what he spoke proceeded from a tender concern for her Majesty's person and government.

As to his suggesting that there are men of characters and stations in church and state, that do weaken, undermine, and betray the church, etc., he denies that he suggests such things of men of characters and stations in church and state : for where he speaks of those who *weaken, undermine, betray, encourage, and put it in the power of our professed enemies, to overturn and destroy the constitution*, there men of characters and stations were not mentioned by him ; and when he mentions them, twelve pages afterwards, he says nothing of weakening, undermining, betraying, or putting it in the power of others to overturn the constitution ; and hopes he shall not be answerable for a supposed reflection, which depends upon the conjunction of passages widely distant, and so little relating to each other.

And as to that part of the charge in this article, that as a public incendiary, he persuaded her Majesty's subjects to keep up distinctions of factions and parties, and fomented divisions, he had, on the contrary, in that sermon, complained of those who had villanously divided us with knavish distinctions of high and low churchmen, and wished that those invidious distinctions were lost ; and had condemned those who, by false insinuations and raising groundless jealousies and fears, embroiled the



public, and would bring us into confusion ; and was so far from exciting or stirring up her Majesty's subjects to arms and violence, that he had asserted the utter illegality of resistance to the supreme power upon any pretence whatsoever ; which he apprehended to be the chief, if not the only ground of the charge exhibited against him in the first article.

That he hoped what he had said in the dedication of the Derby sermon, "*That there are not wanting some to preach the truth, and others to support it, at the expense of their lives and fortunes,*" would not be so construed as exciting her Majesty's subjects to sedition and rebellion ; since that truth which he commends some for preaching, and others for supporting, is by him opposed to the attempts of those who betray and run down the principles and interests of our church and constitution ; and since he there deservedly commends the high sheriff of that county on account of his steady loyalty and zeal to serve her Majesty and the government, for which he hath been so remarkably distinguished.

And as to so much of the said fourth article, whereby it is charged that he, the said Henry Sacheverell, doth wickedly wrest and pervert divers texts and passages of holy scripture, that his said malicious and seditious suggestions may make the stronger impressions upon the mind of her Majesty's subjects, the said Henry Sacheverell says : "that having no malicious or seditious suggestions to imprint, he could not intend to wrest any passages of the holy scripture to that wicked purpose ; and hard is the lot of the ministers of the gospel, if, when they cite the word of God in their general exhortations to piety and virtue, or in their reproof of men's transgressions, or where they are lamenting the difficulties and conflicts with which the Church of Christ, whilst militant here on earth, must always struggle ; the sev-

eral texts and passages by them cited, shall be said to have been by them meant of particular persons and things, and shall be construed in the most criminal sense, and be made, by such construction, one ground of an impeachment for high crimes and misdemeanors."

Then the replication of the Commons to the doctor's answer was read, wherein they aver the charge to be true, and that he is guilty in such manner as he stands impeached.

After which, the Lord Chancellor intimating to the Commons that they might proceed with their evidence, Mr. Attorney-General said :

My Lords, by command of the knights, citizens, and burgesses in Parliament assembled, we appear in behalf of all the Commons in Great Britain, to make good the impeachment against the prisoner at the bar, Doctor Henry Sacheverell.

The misdemeanors he stands accused of are specified in the articles which have just now been read to your Lordships ; and the facts there charged are said to have been done with a wicked, malicious, seditious intention, to undermine and subvert her Majesty's government, and the Protestant succession, as by law established ; to defame her Majesty's administration ; to asperse the memory of his late Majesty, King William ; to traduce and condemn the late happy revolution ; to contradict and arraign the resolution of both Houses of Parliament ; to create jealousies and divisions among her Majesty's subjects ; and to incite them to sedition and rebellion.

My Lords, if this charge be made good (as I am apt to think it will) I may presume to say no words can either aggravate or alleviate the offence.

My Lords, our proofs in this case will arise from evidence which cannot be liable to the imputation of being overawed by the weight of the prosecutors, or corrupted

or perverted ; for out of his own mouth we shall charge him, and by his own words and sermons we shall convict him.

My Lords, this prosecution took its rise from a complaint that was made in the House of Commons the 13th of December last, of two books which had been lately printed and published under the name of Doctor Henry Sacheverell. The books being delivered in, several paragraphs were read ; and, by divers passages, two many for me now to enumerate to your Lordships, it did plainly appear that both books did contain very scandalous and seditious matter, highly reflecting upon the queen, and her administration.

Hereupon the Doctor was ordered to attend ; which he did accordingly next day ; and at the bar of the Commons house owned and avowed both books to be his ; that they were sermons he himself had preached, and that he had caused them to be printed and published.

After such a confession, your Lordships may imagine her Majesty's dutiful Commons did express their just resentments of the great wrong and injuries that were done to her Majesty and all that were in authority under her, and immediately ordered this impeachment.

Your Lordships will perceive, by perusal of the sermons and epistles dedicatory, that the design and drift of the same is to possess the people with strange notions, and terrible apprehensions of the danger they are in, by a general mal-administration of the public affairs, both in church and state.

One of these books is entitled, "The Communication of Sin," being a sermon preached at the assizes held at Derby, in August last ; and because the Doctor thought he had not said enough against the Queen and her government in the sermon, he affixes a dedication to it, wherein he affirms, "That the principles of our church

and constitution are shamefully betrayed and run down ; that both are persecuted, on the one side by rude and presumptuous insults, and base undermining treachery on the other ; and that this persecution is carried on by associated malignants."

The other sermon was preached at St. Paul's, London, on the 5th of November, which is a day set apart for general thanksgiving for two very great deliverances vouchsafed to this nation, by the discovery of the Gunpowder-Plot, and the arrival of his late Majesty King William, to redcem us from Popish tyranny and arbitrary power.

My Lords, when you come to hear this sermon read, I am confident that it must appear very strange to find that, when there were two such memorable occasions for the Doctor to have set forth his eloquence in a thanksgiving sermon, he should in a great measure pass by the business of the day, and entertain his audience with a long harangue of the deplorable condition the church was in ; not so much from Papists, the avowed enemies of the church, as from her pretended friends, as he calls them, the false sons of the church, who were crept into her bowels, and had shewed themselves to be perfidious brethren by defending toleration and liberty of conscience, and favoring the Dissenters. And to show his little liking of the great work which was begun to be wrought that day, by the arrival of his late Majesty, the chief turn of his discourse is to cry up non-resistance, and passive obedience. And to make it most evident that what he said of non-resistance was to cast black and odious colors on the revolution, he lays down a general position, "that it was not lawful upon any pretence whatsoever, to make resistance to the supreme power ;" which supreme power, by other passages, he explains to be the Regal power.

Was there any occasion at that time to be so earnest to cry down resistance, and preach up passive obedience ? Can any one pretend to say there were any symptoms of discontent throughout the nation, in any parts thereof ? No ; to our comfort be it spoken, no reign, no age, no history, can give a better account of the good dispositions of the people to their sovereign ; therefore since the preaching of these doctrines was needless, it does savor of some wicked design to be talking so unreasonably of this subject. If what the Doctor very frequently asserts in this sermon, be true, "that all are false sons of the church who assisted to bring about the revolution; or that joined in the opposition that was made to the encroachments which were begun by evil ministers, in the reign of King James II., against our religion and liberties," let the Doctor a little consider how far his character of a false brother may be carried.

Everybody knows, that lived in those days, that the body of the clergy of the Church of England made a noble stand against the encroachments which were then making, and appeared as active as any of the laity.

My Lords, as the time was most unseasonable for the preaching of such doctrines as these, so the place was very improper for a lecture of politics ; for your Lordships do perceive this latter sermon, which was preached on the fifth of November last, was preached in the great metropolis of this kingdom, before the Lord Mayor, aldermen, and citizens of London ; from whose steady loyalty to her Majesty, and firm affections to the revolution, such vast sums have been contributed for carrying on this long war against France, which has proved so fatal to the French King and other enemies to this kingdom.

And what more likely to give a fatal wound to the public credit at this time, than such a doctrine, which

tends to the overthrow of all the Acts of Parliament which have been made in support of this constitution ?

And how strange an attempt was it in the Doctor to preach against the revolution, and this government, before those citizens, who owe the restoration of their charters, and all their franchises and immunities to it !

But, to do justice to the Doctor, he, in his answer, denies he has said anything of the means which brought about the revolution.

And, if your Lordships can believe him, he says he has endeavored to vindicate the revolution from the black and odious colors the enemies of the revolution would throw both upon that and his late Majesty.

To what end and purpose, then, are these doctrines preached with so much vehemence at this time, unless it be to reflect backwards upon what was done at the time of the revolution ?

There is certainly no occasion to preach non-resistance to her Majesty's loyal and dutiful subjects, who have never shown the least inclination to give disturbances to this present government.

Was there ever known a time in which there was so universal an agreement, in all ranks and degrees amongst us ? Does not every one almost strive to show their zeal and affection for her Majesty, and her government ? If there be any that are less quiet than their neighbors, we shall find them amongst the friends of Dr. Sacheverell, who are professedly no friends to the revolution. Nothing is more certain, than that all that are not satisfied with what was done at the time of the revolution must be enemies to the present establishment ; and it is from this source all these declamations against men of character and station, both in church and state, do proceed.

But I would have the Doctor consider, that we have laws to punish spreaders of false news and horrible stories

of the men and great officers of the kingdom ; and it is to put a stop to these malicious practices now on foot that this delinquent is now brought to this bar.

When we shall have read our several proofs, which will justify every particular charged on the Doctor in the articles of impeachment, the Commons will not doubt of your Lordships' judgment against this defendant.

Then the dedication before the Derby sermon was read, and the sermon preached at St. Paul's, with the dedication to the Lord Mayor, Sir Samuel Garrard ; after which, the Court adjourned to the next day.

On Tuesday the 28th of February, the managers for the Commons, Sir Joseph Jekyll, Mr. Solicitor Eyre, Sir John Holland, Mr. Walpole, Sir John Hawles, and Mr. Stanhope, proceeded to maintain the first article, viz., that the Doctor did suggest and maintain that the necessary means used to bring about the revolution, were odious and unjustifiable ; and that to impute resistance to the revolution was to cast black and odious colors on his late Majesty, and the revolution, etc.

Sir Joseph Jekyll, among other things, said, that it was far from the intention of the Commons, to state the bounds of the subject's submission ; what the law was wisely silent in, the Commons desired to be silent in too ; nor should they put any case of a justifiable resistance but that of the revolution only ; and to make out the justice of that, laid it down for a maxim, that as the law is the only measure of the prince's authority and the people's subjection, so that law derives its being and efficacy from common consent.

Religion had nothing to do to extend the authority of the Prince, or the submission of the subject ; but only secured the legal authority of the one, and enforced the due submission of the other, from the consideration of higher rewards and heavier punishments. That as the

doctrine of unlimited non-resistance was implicitly renounced by the whole nation at the revolution, so had that renunciation been expressed and confirmed by several Acts of Parliament since, and with prayers appointed for the 5th of November, we thanked God for his late Majesty's safe arrival ; and making all opposition fall before him, till he became our King and Governor ; notwithstanding all which, Dr. Sacheverell had condemned the resistance, by which that deliverance was wrought ; and knowing that there was resistance used at the revolution, and that the late King and Parliament had avowed that resistance, yet asserted, that those who say there was any resistance in it, cast black and odious colors on the late King and the revolution ; consequently, he had condemned the resistance used to bring about the revolution, which was the charge contained in the first article.

Mr. Solicitor then cited several passages out of the sermon preached at St. Paul's, to prove the first article ; and observed, that the Doctor's argument ran thus : All resistance is utterly illegal ; the King disclaimed the least imputation of resistance ; the Parliament set the crown upon his head, upon no other title than that of the vacancy of the throne, and burnt a book, because it asserted a title by which resistance was supposed : and, therefore, to impute resistance to the revolution, is to cast black and odious colors upon it.

The Doctor, in his answer, indeed, denied that he maintained the necessary means used to bring about the revolution were odious and unjustifiable, or affirmed anything concerning the necessary means ; and it was true the words *necessary means* were not used in his sermon ; but if resistance was necessary, and the means by which the revolution was effected, then he had

asserted the means to be odious and unjustifiable, though he had done it in other terms.

And as to the late King's disclaiming all resistance, it was an apparent scandal on his late Majesty, who was so far from disclaiming resistance, that he declared he brought over sufficient forces to defend himself against evil counsellors, and encouraged the people to join with him.

That had the Doctor the authority of the Church of England, and of the common and statute law, to justify his maxim of the utter illegality of resistance to the supreme power, there had been no color to charge him with maintaining it ; the resistance used at the revolution could not then be defended ; but the Commons should think themselves ungrateful for that deliverance, if they did not vindicate the honor of the late King, and of those illustrious persons, who, upon his invitation, defended the constitution at that time by resistance, and declare, that this resistance was lawful, honorable, and just.

It could never be supposed, that the laws were made to set up a despotic power, to destroy themselves, and to warrant the subversion of a constitution they were designed to establish ; and it appeared by the acts declaring the rights and liberties of the subjects, that at the time of the revolution, there was a total subversion of the constitution in church and state ; which was a case the laws of England could never provide for, or have in view ; and the same answer might be applied to the general doctrine of the church, expressed in her homilies.

Mr. Stanhope, in maintenance of the first article, said, that those who asserted, in general terms, the absolute illegality of resistance, must do it with a design to overthrow her Majesty's title and government ; since, at the same time they screened themselves, under the notion

of professing absolute passive obedience to the supreme power, they could not conceal, that the real object of this darling doctrine, was a Prince on the other side the water ; they could not otherwise be consistent with themselves ; for in the same discourse to preach passive and unlimited obedience to magistrates, and to revile and defame magistrates ; to preach non-resistance on any pretence, and to encourage sedition, were such contradictions as could not otherwise be reconciled, than by concluding, that, however they were pleased to color and disguise their discourses, their true end was to alienate the people's affection from their present government ; to insinuate that the revolution itself was an usurpation ; and whatever had been built on that foundation was wrong ; and to represent those who had a hand in it as rebels and traitors.

That it was not material what the opinions of some divines have been ; it was sufficiently known what the practice of the Church of England had been, when she found herself oppressed ; and appealed to the practice of all churches and nations, how they behaved themselves, when they found their civil and religious rights invaded and oppressed by tyranny.

He believed there was not that government in the world, but had its beginning in resistance or compact ; and if compact was admitted, there must likewise be admitted, a right to defend those rights accruing by compact : that Grotius, in his *Treatise de Belli and Pacis*, L. 1, cap. 4, section 13, says : “ If the King hath one part of the supreme power, and the other part is in the Senate or people, when the King shall invade that part, which doth not belong to him, it shall be lawful to oppose a just force to him, because his power doth not extend so far. Which position I hold to be true, even though the power of making war should be vested only

in the King, which must be understood only to relate to foreign war: for as for home, it is impossible for any to have a share in the supreme power, and not to have likewise a right to defend that share."

This was exactly adapted to the constitution of England; for that the Lords and Commons, and every subject of Great Britain had rights, could not be denied: and to say, that, when a prince shall invade all these rights, the whole collective body of the nation has no way to vindicate those rights, was so inconsistent, and contrary to reason, that it was to be wondered it could ever enter into the mind of man.

That, at the revolution, it was not thought a black and odious crime, to take up arms for defence of the constitution: many of their Lordships, and the best part of the nation, were concerned in it; and it was with much gratitude to the greatest of Queens, they remembered how great a share her Majesty had in the revolution; and after this, for the Doctor to give the injurious epithets of republicans, of enemies and traitors to Church and State, to those who were concerned in that resistance, was not to be borne; it would have become him to have considered first, who were concerned, and who had a share in it.

That the principles broached by the Doctor, well enough became professed Jacobites, and, had they confined themselves to their own conventicles, it might have been consistent with the mildest government to suffer them to enjoy the toleration, how destructive soever their principles were. But when they should vent their treasons abroad, and occasionally conform and take the oaths to the government, the better to destroy it; when they should abjure the pretended Prince of Wales, but not forget him; and when the pulpit of our metropolis should be prostituted and polluted by venting sedition

against the best of Queens, it was high time for their Lordships to animadvert upon it.

And having made a panegyric on the then ministry, who had, he said, compelled the enemy to sue for peace, and they were about to reap the fruits of a long expensive war ; at such a critical juncture, when it behooved us more than ever to be united, then did this pious son of the church, this loyal subject, this passive obedience gentleman, endeavor to create groundless mistrusts and jealousies of the administration. He was, indeed, but an inconsiderable tool of a party, not worth the trouble they had given their Lordships: but they looked upon it that their Lordships' judgment in this case would be giving a sanction, which would determine what doctrines of this kind should or should not be preached ; and they hoped their Lordships would inflict such punishment on this offender, as should deter others from committing the like insolence.

Sir Peter King, being assigned to maintain the second article, which charges the Doctor with asserting that the toleration granted by law was unreasonable, and the allowance of it unwarrantable, etc., said, it was true, that the word toleration was not mentioned in the Act, as the Doctor had observed in his answer ; but everybody knew, that the exemption granted to Dissenters by 1 W. & M., was called the Toleration Act ; and the Doctor himself, in the 14th page of his sermon, had called it the toleration, where he said, the toleration was never intended to indulge and cherish such monsters and vipers in our bosom ; and, again, on the 19th page, where he says, the Dissenters had advanced themselves from the religious liberty their Sovereign had indulged them in, to claim a civil right, and jostle the church out of her establishment, by hoisting their toleration into its place.

And for the Doctor to affirm that heterodoxy, or a

different opinion from any of the articles of the faith of our church, almost necessarily infers rebellion and high treason in the State, what could be a more direct breaking in upon and disavowing the toleration than this? Was not this to maintain the toleration granted by law to be unreasonable, and the allowance of it to be unwarrantable, when he knew every denomination of Dissenters differed from the church in some of her articles?

Another reflection on the toleration was in page 16, where he says, what could not be gained by comprehension and toleration must be brought about by moderation and occasional conformity; that is, what they could not do by open violence, they will not fail by secret treachery to accomplish, etc. Was not this calling the toleration an open violence to the church, and affirming that it was made with an intent to destroy the church, and maintaining that the toleration was unreasonable, etc.?

And as to that part of the second article, which charges him with asserting that he is a false brother, with relation to God, religion, and the church, who defends toleration and liberty of conscience, he cited the eighth page of his sermon, where the Doctor says, if to defend toleration and liberty of conscience, and under pretence of moderation to excuse the separation, and lay the fault upon the true sons of the church; if to court the fanatics in private, and hear them rail at and blaspheme the church, and, upon occasion, to justify the King's murder; if to flatter both the dead and the living in their vices, and tell the world, if they have wit and money, they need no repentance, and that only fools and beggars are damned;—if these are the modish and fashionable criterions of a true churchman, God deliver us from all such false brethren.

Here he made it one mark of false brethren to defend

toleration and liberty of conscience, which was an evident declaration against the justice and expediency of the toleration.

That by his reflection on Archbishop Grindall, he also designed to censure the toleration ; for he says, page 20, " have they not, ever since their first unhappy plantation in this kingdom, by the intercession of that false son of the church, Bishop Grindall, always improved and rose upon their demands in the permission of the government ? Insomuch that Queen Elizabeth, who was deluded by that perfidious prelate to the toleration of the Genevian discipline (the discipline and polity of the Dissenters), found it such an headstrong and encroaching monster, that she found it would endanger the monarchy as well as the hierarchy ; and, like a queen of true resolution and pious zeal for both, pronounced that such were the restless spirits of that factious people, that no quiet was to be expected from them till they were utterly suppressed ; which, like a prudent princess, she did by wholesome severities, that the crown for many years sat easy and flourishing on her head."

Here he called the Archbishop a false son of the church and a perfidious prelate for persuading the Queen to grant a toleration to Dissenters ; and what was this in effect but to declare the Parliament were in the wrong in granting a toleration to the Dissenters ? and that the bishops, who were for tolerating them, were neither fathers nor sons of the church, but corrupt and perfidious prelates ? And what could he do more to inflame the government against the Dissenters, than by recommending it as a noble resolution and pious zeal in Queen Elizabeth utterly to suppress the Dissenters, and to recommend the severities used in her reign, because they were wholesome, and of happy consequence to that renowned Queen.

The last charge in this article was the Doctor's asserting it to be the duty of the superior pastors to thunder out their ecclesiastical anathemas against persons entitled to the benefit of the toleration, and insolently defying any power on earth to reverse those sentences; for which he referred to the 25th page of the sermon, and observed that the Doctor did in his answer own this charge in effect, for he there affirmed that some sentences pronounced by the pastors of the church were ratified in heaven; that some persons exempted from punishment by the laws of the land might yet, by the laws of Christ, be liable to such sentences; and that schism, or a causeless separation from a church, enjoining no sinful terms of communion, was a sin which exposed the person guilty of it to the censures of the church; which was not only a weakening and censuring the toleration, but a direct impugning the Queen's supremacy, which by the canon he was bound to maintain.

The Court assembling again on Wednesday, the 1st of March, Mr. Thompson endeavored to maintain the charge in the third article, viz., that the Doctor had asserted in contradiction to a vote of both Houses,—

The church was in a condition of great peril and adversity under her Majesty's administration, and insinuated that the members who passed that vote were themselves conspiring the ruin of the church, while they voted it out of danger; alluding, by way of parallel, to that assembly who voted the person of King Charles I. out of danger, at the same time they were conspiring his destruction.

To prove this part of the charge, he quoted a passage in the 5th page of the Doctor's sermon, where he says of the Church of England: "Her holy communion has been rent and divided by factions and schismatical impostors; her pure doctrine corrupted and defiled; her

primitive worship and discipline profaned and abused ; her sacred orders denied and villified ; her priests and professors, like St. Paul, calumniated, misrepresented, and ridiculed ; her altars and sacraments prostituted to hypocrites, deists, socinians, and atheists ; and this done, I wish I could not say, without discouragement, I am sure with impunity, not only by our professed enemies, but, which is worse, by our pretended friends and false brethren."

Another passage he cited, for proof of this article, was in page 18, where the Doctor says : " Falsehood always implies treachery ; and whether this was a qualification for any one to be trusted, especially with the guardianship of our church and crown, let our governors consider." Whether this reflection did not aim higher than the administration, he submitted to their lordships.

The next passage cited is in page 20, where he says : " And now are we under no danger in these deplorable circumstances ? Must we lull ourselves under this sad repose, and in such a stupid, lethargic security embrace our ruin ? When Elisha, the great prophet of God, was surrounded with an host of enemies that sought his life, his blind servant beheld not the peril his master was in till his eyes were opened by a miracle, and he found himself in the midst of horses and chariots of fire. I pray God we be out of danger ; but we may remember the King's person was voted to be so at the time his murderers were conspiring his death."

That the Doctor would excuse himself, indeed, in his answer, by saying that these deplorable circumstances proceeded from the maturity of national sins, etc. But it was plain he insinuated and asserted that this danger was occasioned by the dissension from the church, which the Legislature apprehended to be no danger to it, and therefore it did not become him to assert the

contrary ; and as to the parallel between the assembly who voted King Charles I. out of danger, and the members who voted the church out of danger, though the Doctor said he meant no reflection on the members who passed that vote, because he never mentioned that vote, and that they were not the same people who voted King Charles out of danger that conspired his ruin, the Doctor could not be ignorant that it was in November, 1648, that King Charles was voted out of danger, and how soon after the King's trial and death happened, everybody knew ; and though there might be some alteration made in that assembly during that time, the persons who conspired his destruction were part of that assembly who voted him out of danger, and it was not to be doubted but the Doctor intended his allusion in the same manner.

And as to the place of scripture quoted by the Doctor, viz. : that the blind servant beheld not the peril his master Elisha was in, till his eyes were opened by a miracle, and he found himself in the midst of horses and chariots of fire. These horses and chariots of fire, he observed, were not the prophet's enemies ; so that he plainly perverted the sense of the text, to make a stronger impression, and more effectually to delude the people.

The last passage he cited to maintain this article was in the last page, where, speaking of the danger of the church, the Doctor quotes a text of Lamentations, viz. : " Though she lies bleeding of the wounds she received in the house of her friends." This text, he said, he could not find, and therefore it seemed to be a lamentation of the Doctor's own making. Then, he observed, the Doctor goes on : " Though the ways of Zion may mourn for a time, and her gates be desolate, her priests sigh, and she in bitterness, because her adversaries be chief, and her enemies at present prosper ; though among all her lovers she has few to comfort her, and many of her

friends have dealt treacherously with her, and are become her enemies."

These passages, he said, he mentioned only to show that the Doctor, by the most pathetic expressions of his own, mixed with these texts of Scripture, endeavored to represent the Church of England to be in the utmost danger.

And as to the Doctor's pretence, that the vote concerning the church's danger could not concern him, because it was made four years ago, he should have observed that the words were, "whosoever shall go about to insinuate that the church is in danger, under her Majesty's administration;" and therefore it must relate to any time during her Majesty's reign.

And that the Doctor (whose education would not permit us to presume he sinned through ignorance) should take upon him, in his private capacity, to contradict the sense of the whole nation, and cast such aspersions on his superiors, this immoderate fear could only be intended to animate a deluded people to the execution of seditious designs.

But the Commons were so well satisfied of their Lordships' true concern for the preservation of the constitution, that they could not imagine they would suffer such attempts to pass without condign punishment.

Lord Coningsby being assigned also to maintain the third article, observed,—

That the Doctor's sermon, preached at St. Paul's, from the title page to the conclusion, was one malicious and seditious assertion, that the Church of England was in the utmost peril and danger in the last reign and the present, and was preached with an intention to bring in the Pretender and popery.

Mr. Serjeant Parker, being assigned to make good the charge in the fourth article, viz., that the Doctor

does falsely and maliciously suggest that her Majesty's administration, both in ecclesiastical and civil affairs, tends to the destruction of the constitution ; and that there are men of characters and stations, both in church and state, who are false brethren, and do themselves weaken, undermine, and betray, and do encourage, and put in the power of others, who are professed enemies, to overturn and destroy the constitution and establishment ; and chargeth her Majesty, and those in authority under her, with a general mal-administration ; and, as a public incendiary, he persuades her Majesty's subjects to keep up a distinction of factions and parties, instils groundless jealousies and foment destructive divisions among them, and excites and stirs them up to arms and violence ; and that his said seditious and malicious suggestions may make the stronger impressions upon the minds of her Majesty's subjects, he, the said Henry Sacheverell, does wickedly wrest and pervert divers texts and passages of holy Scriptures,—

Observed that the avowed design of this sermon was to represent the extreme perils and distresses of the church and constitution from false brethren that are in the administration and countenanced by it. And beginning with the second clause in this article, viz., that he did falsely and maliciously suggest that there are men of characters and stations, in church and state, who are false brethren, and do weaken, undermine, and betray, etc. To prove this, he cited page 15, where the Doctor says that they weaken, undermine, and betray in themselves, and encourage and put it in the power of our professed enemies to overturn and destroy the constitution and establishment ; that this ran through his whole discourse, and being affirmed of false brethren in general, must be applied to every sort of false brother ; and, consequently, if there were men of characters and stations whom he

represented as false brethren, then he affirmed of them, and had undertaken to prove, that they did weaken, undermine, and betray the constitution, etc.

That (page 21) he said, what a vast scandal and offence it must be, to see men of characters and stations thus shift and prevaricate with their principles! What can unwary persons conclude from this tergiversation and hypocrisy, but that all religion is a state of craft and imposture, that all godliness is gain, and that the doctrines of the church lie not so much in her articles as her honors and revenues?

This was a full charge of false brotherhood upon persons of characters and stations; and, according to the description he had given above of false brethren, that they did weaken, undermine, and betray, etc., he had charged men of characters and stations with weakening, undermining, and betraying, etc.

That this was a general arraignment of the government. And, to put the matter beyond all doubt, he said, in Scripture-words, page 26, that the church's adversaries are chief.

As to the third clause in this article, that he charged her Majesty, and those in authority, with a general mal-administration, he cited page 14, where he said these false brethren in our government do not singly in private spread their poison, but (what is lamentable to be spoken), are suffered to combine into bodies and seminaries, wherein atheism, deism, tritheism, socianism, with all the hellish principles of fanaticism, regicide, and anarchy, are openly professed and taught, to corrupt and debauch the youth of the nation, in all parts of it, down to posterity, to the present reproach and future extirpation of our laws and religion.

That (page 23) a false brother is represented as relinquishing his old friends and principles, and betraying his

own party for the little sordid lucre of place and preferment. And that the false brethren he mentions as put into places are put in by our governors, he plainly suggests, page 18, when he bids the governors consider whether they are fit to be entrusted especially with the guardianship of our church and crown.

As to the first clause in this article, which charges him with suggesting that her Majesty's administration, in church and state, tended to the destruction of the constitution, this he observed was made out by what had been said of the other two. All those fatal mischiefs complained of in them arose from the administration, which, therefore, plainly tended to the destruction of the constitution.

As to that clause which charged the Doctor as a public incendiary, with fomenting factions and parties, instilling groundless fears and jealousies, etc., he said his language of forsaking old friends and principles, and betraying their party, could have no other drift but the keeping up distinctions and instilling groundless jealousies; and though he pretended to approve of an indulgence to scrupulous consciences, in reality he approved of none; since he did not admit any one to have a conscience truly scrupulous who differed from him; but all such were false brethren and villains, and to be stigmatized with all the other names of reproach he was so liberal of.

And, as to his inciting her Majesty's subjects to arms and violence, this was most manifest from his spreading such hideous representations of the government; such outcries of the church and true religion being undermined, betrayed, and exposed by those in the administration. This naturally tended to rebellion; and therefore, at common law, to bear the people in hand, that the King's government was erroneous, heretical, or

unjust, whereby the manner of the government was arraigned or impeached, was held to be high treason.

The last part of the charge, his perverting tests of scripture, he proved from the passage concerning Elisha, mentioned before by Mr. Thompson. And whether he should impute that mistake to the Doctor's ignorance, and taking it upon hearsay, or to his resolution knowingly to pervert it, he left to the Doctor's choice.

And whereas the Doctor said he was, to his great comfort, charged in this article only with suggesting, and not maintaining, that her Majesty's administration tended to the destruction of the constitution, and hoped that bare suggestions and insinuations should not involve an English subject in the guilt and punishment of high crimes and misdemeanors.

He replied, that although this charge had not been positive (as it was) it would be very extraordinary to imagine that, let a man cast ever so many scandals and reproaches on the government, if it were done by way of suggestion and insinuation, and the charges were expressly maintained and avowed, there should be no crime in it, or not a high one ; this was to say that sedition and exposing the government were lawful, only the manner was to be taken care of ; that if you do it by suggestions, which everybody will understand, and which will have their full effect, yet you may be safe ; for those who come to judge you are not to understand you, though everybody else does.

On Thursday, the 2d of March, the Court being met again, Mr. Lechmere observed that the Commons had made their impeachment good in every part ; and having given a short abstract of the managers' arguments, he added, that the Commons had gone through their charge together, that their Lordships might have it entire ; but they reserved to themselves the liberty of replying, and

every other legal advantage that should arise to them in the progress of their impeachment.

The Court meeting again on Friday, the 3d of March, and the Doctor's counsel being directed to proceed, defended him against the charge in the articles; but, the Doctor having given us an abstract of their arguments himself in the following speech, after his counsel had concluded, we shall content ourselves with giving that speech entire, which is esteemed one of the finest pieces of oratory we have in English.

Dr. Sacheverell: My Lords, the defence made by my counsel has been so full and particular, and the trial itself drawn out into so great a length, that I should not add to your Lordships' trouble by saying anything for myself, did I not think that in such a cause as this (wherein the doctrine of our church, the dignity of that holy order to which I belong, and even the common interest of Christianity itself, are so nearly concerned) it becomes me not to be altogether silent.

For, my Lords, it has been owned by some of the managers for the honorable House of Commons, that though I am the person impeached, yet my condemnation is not the thing principally aimed at. I am, it seems, an insignificant tool of a party, not worth regarding. The avowed design of my impeachment is, by the means of it to procure an eternal and indelible brand of infamy to be fixed in a Parliamentary way on all those who maintain the doctrine of non-resistance, and to have the clergy directed what doctrine they are to preach, and what not; and therefore as insignificant as I am in myself, yet the consequences of my trial (if rightly represented to your Lordships by some of those gentlemen) are of the highest moment and importance.

Since I am the unfortunate occasion of bringing these matters in judgment before your Lordships, it will be-

hoove me, I think, after what has been pleaded in my behalf by my counsel learned in the law, to say something also for myself, in order to clear the innocence of my intentions, and remove that load of guilt and infamy which may be laid upon me, should your Lordships determine (as I trust in God you will not) that the articles of impeachment exhibited have been made good against me.

With your Lordships' permission, then, I shall lay before you some few general remarks, which, in my humble opinion, may be added to what my counsel have already observed, concerning the methods taken by the managers for the honorable House of Commons, to prove and support the articles of their charge; and shall then, with your Lordships' leave, say somewhat severally to the articles themselves, which may serve to remind your Lordships of what my counsel before offered more at large, and with greater advantage.

My Lords, the charge brought against me in these articles is of a very high and heinous nature; and, had it been as clearly made out as it has been strongly affirmed, it would justly have exposed me to a very severe sentence; but the more heinous the charge is, the more evident and undeniable, I should think, the proof ought to be. And how, my Lords, has this charge been supported in the several articles of it? By plain, direct, and express passages, produced and read to your Lordships out of my sermons? or by intendments, unnecessary implications, and strained constructions? By laying entire sentences before your Lordships, and relying upon what was manifestly contained in them? or by piecing broken sentences, and conjoining distant and independent passages, in order to make me speak what I never thought of?

I am unacquainted, my Lords, with the methods of legal proof, and little thought I should have had this

occasion of inquiring into them. But as far as I am able to comprehend anything of this nature, I should think that there cannot be a clearer indication that I am not guilty of having asserted what I am charged by the several articles to have said, than that so many hours' learning and eloquence have been employed in proving me to have said it. Had I really affirmed those propositions for which I am accused, my sermons being before your Lordships, the places wherein such propositions were directly contained might have been referred to and read with the same ease as my counsel referred to the passages contained in the several writings and sermons of the reverend fathers, and other eminent divines of our church, wherein they taught the doctrine of non-resistance in the same extent as I maintained it, or in terms much stronger.

These passages produced by my counsel, were barely read to your Lordships; no argument, no colors were used, because none were necessary to prove what propositions were laid down in those passages. Whereas, to prove me guilty of having asserted what is laid to my charge, after my sermons and prefaces were read to your Lordships, much art and industry were used to persuade your Lordships that such assertions were really contained in them.

My Lords, when my words were capable of two senses, the worst and most invidious, and at the same time the most strained and unnatural construction, has been always made of them. Nay, when my words were so plain and express that it was impossible to put any criminal glosses or colors upon them, I have been accused of meaning the direct contrary of what I have said; and when I pressed the duty of allegiance to the Queen, your Lordships were told that it was most certain I meant the Pretender.



But, my Lords, I lay aside all complaints of this nature, and with your Lordships' leave, shall proceed to make some few short observations upon the several branches of the charge exhibited against me.

I am charged, my Lords, in the first article, with having maintained that the necessary means used to bring about the happy revolution, were odious and unjustifiable : in proof of which it has been urged, that I have in general terms asserted the utter illegality of resistance to the supreme power, upon any pretence whatsoever. My Lords, the resistance in that passage by me condemned is no where, by me, applied to the revolution ; nor is it applicable to the case of the revolution, the supreme power then being not resisted.

My Lords, I neither expressly applied my doctrine of non-resistance to the case of the revolution, nor had I the least thoughts of including the revolution under my general assertion. I expressed this doctrine in the same general terms in which I found it delivered by the apostles of Christ. I taught it as I had learnt it, from the Homilies of our church, and as I was enjoined to teach it by the articles of our religion. I used no other language than what had been used by our first reformers ; by a continued series of right reverend prelates, and other celebrated divines, now with God, and by many of those venerable fathers before whom I stand, and what is perfectly agreeable to the laws and statutes of the realm.

I had little reason to apprehend that I could ever have been accused by these gentlemen of the House of Commons to your Lordships, as a criminal or as an asperser of the memory of the late King, for preaching this doctrine ; when others, who preached the same doctrines in the same terms before their late Majesties, before our present gracious sovereign (whom I pray God long to

preserve !), before each House of Parliament, before this very House of Commons, have met with public approbation. But since it is my singular misfortune to be accused for what others have received thanks, in some instances conveyed to them by several of the managers themselves, I do with all humble confidence rely upon your Lordships' justice ; not doubting but that the learned judges, if thought necessary to be consulted, will declare what I have in this case asserted, to be warranted by law ; and the right reverend the bishops, will affirm it to be the doctrine of the gospel.

The doctrine I preached being the doctrine of the Homilies of our church, not expressed only in a few particular passages of those Homilies, but perfectly agreeable to the whole tenor, the main scope and design of them ; and those Homilies being established by the Thirty-nine Articles, as containing godly and wholesome doctrine ; and those articles being confirmed by the 13th, of Queen Elizabeth ; and that statute being made perpetual and fundamental to our constitution by the late Act of Union ;—I leave it to your Lordships to consider how far the condemnation of me, on the account of that doctrine, may effect and shake the present frame of the British Constitution, in church and state, and tend to dissolve the union of the two kingdoms.

My Lords, upon the second article I would humbly pray your Lordships to consider that I have nowhere in my sermon shown any—the least dislike of the indulgence granted by the law to Dissenters ; that on the contrary, I have declared my approbation of it in the most express terms imaginable, which I beg leave once more to repeat to your Lordships out of my sermon, preached at St. Paul's. “ I would not,” I there say, “ be misunderstood, as if I intended to cast the least invidious reflection upon that indulgence, which the government hath

condescended to give them ; which I am sure, all those who wish well to our church, are ready to grant to consciences truly scrupulous ; let them enjoy it in the full limits the law has prescribed."

My Lords, this then was and still is, my sincere opinion ; nor am I conscious that I have uttered one word inconsistent with it. I have indeed blamed, and perhaps with some warmth and earnestness, the abuses which men of no conscience have made of the legal exemption granted to consciences truly scrupulous ; nor could I think that those apprehensions of mine would have drawn upon me the displeasure of any sincere Christian, which were levelled against hypocrites, Socinians, Deists, and such as under the umbrage of the Act, which permits Protestant Dissenters, and those only, to serve God, every man in his own way, think themselves to be at liberty to be of no Protestant congregation, of no religion at all. I will further ingenuously own to your Lordships, that I had in my eye some abuses made of that Act, by the Dissenters themselves ; who, I am told, do (both pastors and people) rarely observe the qualifications prescribed by that Act ; and who erect seminaries for educating youth in principles opposite to the doctrine, discipline, and worship of our church : whereas, that Act was intended for the case of those whose minds, through the unhappy prejudices of education, were already estranged from the church ; not, as I humbly conceive, to indulge men in taking the most effectual methods to propagate and perpetuate their schism.

As to Archbishop Grindall, though I may seem to have used some undue asperity of expression concerning him, yet I charged him with nothing but what I had good grounds for, from our historians. It hath been made to appear to your Lordships that on the account of his remissness in church-government, he lived and

died under the high displeasure of Queen Elizabeth ; and whether, therefore, he or that glorious Queen shall bear the blame of his disgrace and sufferings, is with all humility submitted to your Lordships.

I hope, my Lords, I stand clear in your opinions of the charge advanced against me in the two first articles ; and as my own conscience acquits, so I trust your Lordships will acquit me of whatever is laid to my charge in the third.

My Lords, I neither have suggested, nor do in my conscience believe, that the church is in the least peril or adversity from her Majesty's administration ; so far am I from any such thoughts, that I am entirely satisfied, of her being a most affectionate nursing-mother to it. But I hope I may say, without offence, that the church may be in peril from some other causes, without any reflection upon her Majesty's government, or any contradiction to her royal proclamation, and the resolution of both Houses of Parliament four years ago. If the church be in danger, when the Christian religion is evidently so, I hope it will be thought no crime to say it has scarce ever been in greater danger than it is now, since Christ had a church upon earth. For, besides that deluge of profaneness and immorality which overspreads the whole kingdom ; besides the variety and growing strength of those schisms which weaken and divide us, and of those heterodox opinions and damnable heresies which are daily published and propagated among us,—I verily believe that never were the ministers of Christ so abused and vilified ; never was the Divine authority of the Holy Scriptures so arraigned and ridiculed ; never was infidelity and atheism itself so impudent and bare-faced ; never were such horrid blasphemies printed in any Christian state from the foundation of Christianity to this day.

Out of the many instances of this kind, which being

ready at hand, I could have produced to your Lordships, I have selected a few only ; but those such as, I am persuaded, your Lordships could not hear without horror and astonishment. Pardon me, my Lords, if my apprehensions of the sad consequences we may expect from such trying abominations, have forced from me some expressions, which, upon a less occasion, might seem too harsh and vehement. A man that dreads no danger from such unparalleled iniquities, that do, as it were, call down God's severest judgments upon that church and nation wherein they are openly and daringly committed, must be dead in his love for his country and religion. If I have disclosed such a frightful and detestable scene of impiety, which, by reason of your Lordships' high stations and great employments, might possibly lie undiscovered to your sight before, I shall think myself happy, whatever shall befall me, if I may, by God's grace, become the mean instrument of putting a stop to that overflowing of ungodliness and blasphemy, which, as yet, no laws, no proclamations, how well soever designed, and how often soever repeated, have been able to restrain.

I humbly crave your Lordships' patience yet a little longer, whilst I speak what is alleged in the fourth article, which charges me with many crimes of a very high and flagrant nature ; none of which have been endeavored to be proved upon me, otherwise than from supposed suggestions, and undetermined expressions ; and I must still, with your Lordships' leave, humbly insist upon it, that where the expressions are doubtful, there the favorable sense is always to be preferred.

After all that has been said by the learned managers for the Commons, what minister of state, I beseech your Lordships, have I been proved to reflect upon, directly or indirectly ? Where, and how, do I, by any suggestion, charge her Majesty, or those in authority under her,

with a general mal-administration ? How do I persuade her subjects to keep up a distinction of parties and factions, while I reprove those who divide us by knavish distinctions, and while I persuade my fellow-subjects to lose and forget them ? How is it possible, I should stir up the people to arms and violence, when I am endeavoring to convince them of the utter illegality of resistance, upon any pretence whatsoever ? These things, my Lords, seem to be inconsistent, unless a man may be thought a rebel for recommending loyalty, or seditious for preaching against sedition.

I remember, indeed, at the opening of this charge against me, that one of the managers of the House of Commons vouchsafed to offer his charitable assistance towards reconciling this seeming inconsistency ; for he was pleased to suppose, that, when I spoke against resisting the Sovereign, I had not our gracious Queen, but some other person, in view ; and that I might therefore, agreeably to my principles of non-resistance, stir up the people to arms and violence against her sacred Majesty. Your Lordships will once more pardon my earnestness, if I call God to witness, that I utterly detest any such traitorous intention, as I should, in my own opinion, be unworthy of the name of a Christian, if I could give myself leave to cast such a black and groundless imputation upon any one in like circumstances with mine, who had given all possible evidence of his duty and affection to the present government. My Lords, I have taken the oath of allegiance to her Majesty, and that of abjuration against the Pretender ; and when, therefore, I preached the doctrine of non-resistance, it is most apparent, that the government, which I persuaded my fellow-subjects not to resist, is the present government ; and I humbly conceive, that the present government can never be overturned, if it be never resisted.

My Lords, the charge of wickedly wresting divers texts of scripture, lies very heavy upon me, as a Christian and minister of Christ. If I am guilty of it, there is another tribunal, another bar, at which I am to appear, and where, by that scripture which I have wrested, I shall be judged and condemned. In the mean time, my Lords, I hope that those, whose particular profession and studies qualify them to be the most competent judges of such matters, will absolve me in this particular.

Upon the whole, therefore, my Lords, I hope it appears that I am not guilty of any of the crimes of which I am accused ; that I have transgressed no law of the land, neither statute nor common law, relating either to her Majesty or to my fellow-subjects, to the church or to the state ; and that I may with all humility apply to my own case, the words of that blessed apostle, whose doctrine I defend, and whose example I hope I shall have the grace to follow, "*Neither* against the law, nor against the temple, nor against Caesar, have I offended anything at all ! "

And so, with all humility and resignation, I submit myself to your Lordships' judgment, be it what it will. One thing I am sure it can never take from me, the power of wishing and praying, and (whether in prosperity or adversity, whether I am acquitted or condemned) I shall always pray for the Queen my Sovereign ; for your Lordships, my judges ; and for the Commons my accusers ; most earnestly beseeching Almighty God to deliver all orders and degrees of men amongst us from all false doctrine, heresy, and schism, from hardness of heart, from contempt of his word and commandment : from envy, hatred, and malice, and all uncharitableness.

The question being put in the House, whether the Commons had made good their first article of impeach-

ment, as also the second, third and fourth: it was, as to every article, resolved in the affirmative.

On Monday, March the 20th, the Lords being come down to the court erected in the hall, the question was again put to every Peer, beginning with my Lord Pelham, the junior baron; and, having delivered their respective opinions, the Lord Chancellor numbered them, and declared, that there were one hundred and twenty of their Lordships present, of whom sixty-eight had found Dr. Sacheverell *guilty* of the High Crimes and Misdemeanors charged on him by the impeachment of the House of Commons, and fifty-two had found him *not guilty*.

Then the Doctor was brought to the bar, and kneeled till the Lord Chancellor bid him rise; after which he moved in arrest of judgment: 1. That no entire clause, sentence, or expression, contained in either of his sermons, or dedication, was particularly set forth in the impeachment. 2. That the articles were said to be only by the knights, citizens, and burgesses, leaving out commissioners of shires and boroughs, which was neither agreeable to the impeachment nor to the title of the House of Commons, since the Union.

Then the Lords adjourned to their house; and on the 23d of March, the Commons came up with their Speaker to the House of Lords, to demand judgment; and the Doctor, being brought to the bar, kneeled till the Lord Chancellor bid him stand up; and the Speaker of the Commons having demanded judgment,

The Lord Chancellor acquainted the Doctor that his exceptions in arrest of judgment had been overruled; and then proceeded to pronounce the following judgment, viz.:

That you, Henry Sacheverell, Doctor in Divinity, shall be, and you are hereby enjoined not to preach during



the term of three years next ensuing ; that your two printed sermons, referred to by the impeachment of the House of Commons, shall be burnt before the Royal Exchange in London, between the hours of one and two of the clock, on the 27th of this inst., March, by the hands of the common hangman, in the presence of the Lord Mayor of London, and the Sheriffs of London and Middlesex.

And the Doctor being withdrawn, an order was made, directed to the Lord Mayor and Sheriffs, to see the sentence executed.

This favorable sentence was looked upon by the Doctor's friends rather as an acquittal than a condemnation, and as a certain indication of the impotence of his enemies ; and that night several of the streets of London and Westminster were illuminated, and bonfires were made, where every one that passed by was compelled to drink the Doctor's health.

The Lord Mayor insisted, that as he was a member of the House of Commons, he was excused from attending at the burning of the sermons, pursuant to their Lordships' sentence ; and so left the execution of the sentence to the Sheriffs.

Dr. Sacheverell, whose history affords a very striking example of the folly of party spirit, was the son of Joshua Sacheverell, of Marlborough. Henry was put to school at Marlborough, and afterwards sent to Magdalen College, Oxford. Here he soon distinguished himself by a regular observance of the duties of the house, by his compositions, good manners, and genteel behavior, qualifications which recommended him to that society of which he became a fellow ; and as a public tutor, had the care of the education of most of the young gentlemen of quality and fortune, that was admitted to the college, and was contemporary and chamber-fellow with Addison,

and one of his chief intimates till the time of his famous trial.

His first preferment was Cank, in the county of Stafford. He was appointed preacher of St. Saviour's, Southwalk, in 1705 ; and, while in this station, preached his famous sermons (at Derby, August 14th, 1709 and at St. Paul's, November 9th, in the same year) ; and, in one of them, was supposed to point at Lord Godolphin, under the name of Volpone. It has been suggested, that, to this circumstance, as much as to the doctrine contained in his sermons, he was indebted for his prosecution, and, eventually, for his preferment.

His enemies triumphed, yet dared not venture abroad. He was disgraced by the Legislature, but tens of thousands bent as lowly before him as the Thibetians to the Grand Lama. He went on a tour of triumph through the country ; and was received with splendor and respectful pomp at every place he visited. Magistrates, in their formalities, welcomed him into their corporations ; and his guard of honor was frequently a thousand gentlemen on horseback. At Bridgworth, he was met by Mr. Creswell, at the head of four thousand horse, and the same number of persons on foot, wearing white knots edged with gold, and three leaves of gilt laurel in their hats. The hedges, for several miles, were dressed with garlands of flowers, and the steeples covered with flags. In this manner he passed through Warwick, Birmingham, Bridgworth, Ludlow, and Shrewsbury, on his way to his Welch living, with a cavalcade better suited to a prince than a priest. Ridiculous as this farce was, it did some good, as it kept up the respect due to the national church, by engaging the voice of the people at large in its favor, and discouraging any attempts to lower or innovate upon it, in the smallest degree.

In the month his suspension ended, he had the valua-

ble rectory of St. Andrew's, Holborn, given him by the Queen ; and the House of Commons (his prosecutors), ordered him to preach before them and thanked him for his discourse. At that time his reputation was so high that he was enabled to sell the first sermon (preached after his sentence expired on Palm Sunday) for the sum of one hundred pounds ; and upwards of forty thousand copies, it is said, were soon sold.

A considerable estate at Callow, in Derbyshire, was soon after left to him by his kinsman, George Sacheverell, Esq. After this we hear little of him, except by quarrels with his parishioners. He died June 5, 1724; and, by his will, bequeathed to Bishop Atterbury, then in exile, who was supposed to have penned for him the defence he made before the House of Peers, the sum of five hundred pounds.

The Duchess of Marlborough describes Sacheverell as "an ignorant, impudent incendiary ; a man who was the scorn even of those who made use of him as a tool." And Bishop Burnet says, "he was a bold, insolent man, with a very small measure of religion, virtue, learning, or good sense ; but he resolved to force himself into popularity and preferment by the most petulant railings at dissenters and low-churchmen, in several sermons and libels, written without either chasteness of style or liveliness of expression."

CHAPTER XIX.

TRIAL OF THOMAS PAINE.

MR. PERCIVAL opened the pleadings on this information, which stated :

“ That Thomas Paine, being a wicked, seditious, and ill-disposed person, and being greatly disaffected to our sovereign lord the king, and to the happy government and constitution of this kingdom, as established at the revolution, published a false and scandalous libel of and concerning the said government and constitution, etc. ;” which libel he afterwards stated.

To this the defendant had pleaded not guilty.

Mr. Attorney-General laid before the jury what appeared to him a plain, clear, and indisputable case. Had it not been that certain circumstances had rendered it of more expectation than ordinary, he should have contented himself with reading literally the different libellous passages from the second part of the publication, called the Rights of Man, and left them to the judgment of the jury, without saying one word upon them ; but the accumulated mischief which had arisen from this libel had rendered it necessary that he should say a few words.

He observed, the publication in question was not the first of the kind which this defendant had sent forth into the world. He had published what is called the first part of the Rights of Man, which though it was extremely reprehensible, he had overlooked, on this principle : that he did not wish to prevent any kind of specula-

tive discussion from coming under the public eye. But another was ushered into the world still more reprehensible than the first, which had been spread over every part of the kingdom with incredible industry, and thrust into the hands of all descriptions of persons in this country. Even children's sweetmeats were wrapped up with parts of it. The most inconceivable industry had been exerted to obtrude this book on the minds of the public, who were not conversant with such subjects, and of which they could form no proper judgment. He had, therefore, thought it his duty to put a charge on the record against the author of this book.

In the first place, he imputed to it a deliberate intention to villify and disgrace, and thereby to bring into abhorrence and contempt, the whole constitution of the government of this country, as explained at the revolution—that system of government under which we had the happiness to live at this day. By these means the subjects of this country might be imposed on to their own destruction, and be diffident of that which was their salvation, and upon which everything that was dear to them depended. He imputed to this book a deliberate design to bring calamity on this country, by destroying that love which we had hitherto had for our constitution. He imputed to the defendant, that he had represented the regal part of this government, bounded and limited as it was, as *oppressive* and *abominable* tyranny; and he further imputed to the defendant, that he had represented the legislature of this kingdom as a direct usurpation.

Several witnesses were examined, who proved the handwriting of the defendant, and that he was author of the pamphlet in question.

The evidence being finished on the part of the prosecution,

Mr. Erskine delivered a speech of three hours and twenty minutes long, in favor of the defendant. The true question for the decision of the jury was, when the defendant wrote his book, did he, or did he not, believe he was doing that which would be beneficial to the English nation at large? No matter whether the abuses which he stated existed or not. No matter whether the English constitution was superior to the constitutions of America, France, or any other country on the face of the globe: yet, if Mr. Paine believed that it was not, and under the influence of that belief, published his "Rights of Man," for what he conceived would tend to the benefit of the English nation, he conceived that was no libel. He addressed himself to the reason of a whole nation; and his client was not a subject of criminal justice unless it could be shown, that, at the time he wrote, it was not to promote the happiness, but produce the misery of the inhabitants of the kingdom. This was the principle, the root and foundation upon which the learned counsel erected his most ingenious defence.

The learned counsel produced many authorities in point, from the most celebrated authors, in support of his defence, on the principles of the liberty of the press; particularly from some of the political works of Mr. Burke. He also cited the authority of Milton, Locke, Hume, Sir Geo. Savile, Dr. Johnson, Dr. Price, Dr. Paley, Lord Loughborough, and Earl Stanhope. How great had been the progress of literature, science, and government, in consequence of the publication of new opinions which were improvements upon the old! Had it not been for that circumstance, we must still have been savages among the woods, living in a state of nature. If they attended to the course of the world with regard to the dissemination of truth, they would find that the universal God that created us, the Author of our

nature, was one of the first martyrs on account of the dissemination of truth, when he came to give it propagation. The Saviour of the world expired on a cross for stating that which was the object of scorn the moment it was published. His blessed followers experienced the same fate. Our Saviour might have come in the flesh, like the Mahometan prophet; he might have come like a great sovereign; he might have appeared at once in dignity and authority; but He came to confound the pride of man, and to preach those universal and equal rights which have been the great privileges of mankind in every age of the world; and therefore He came in that low state in which He is described, and preached His consolations to the poor.

Mr. Attorney-General was about to reply, on the part of the prosecution, when the gentlemen of the jury told him there was no necessity for giving himself the trouble; and immediately found the defendant—*Guilty*.

CHAPTER XX.

TRIAL OF WARREN HASTINGS.

IN the meantime, the preparations for the trial had proceeded rapidly ; and on the 13th of February, 1788, the sittings of the court commenced. There have been spectacles more dazzling to the eye, more gorgeous with jewelry and cloth of gold, more attractive to grown-up children, than that which was then exhibited at Westminster ; but, perhaps, there never was a spectacle so well calculated to strike a highly cultivated, a reflecting and imaginative mind. All the various kinds of interest which belong to the near and to the distant, to the present and to the past, were collected on one spot and in one hour. All the talents, and all the accomplishments which are developed by liberty and civilization were now displayed, with every advantage that could be derived from co-operation and contrast. Every step in the proceedings carried the mind either backward, through many troubled centuries, to the days when the foundations of the constitution were laid ; or far away, over boundless seas and deserts, to dusky nations living under strange stars, worshipping strange gods, and writing strange characters from right to left. The High Court of Parliament was to sit, according to forms handed down from the days of the Plantagenets, on an Englishman accused of exercising tyranny over the lord of the holy city of Benares, and the ladies of the princely house of Oude.

The place was worthy of such a trial. It was the great hall of William Rufus, the hall which had resounded with acclamations at the inaguration of thirty Kings ;

the hall which had witnessed the first sentence of Bacon, and the just absolution of Somers; the hall where the eloquence of Strafford had for a moment awed and melted a victorious party inflamed with just resentment; the hall where Charles had confronted the High Court of Justice with the placid courage which has half redeemed his fame. Neither military nor civil power was wanting. The avenues were lined with grenadiers. The streets were kept clear by cavalry. The peers, robed in gold and ermine, were marshalled by the heralds under Garter King-at-Arms. The judges, in their vestments of state, attended to give advice on points of law. Near a hundred and seventy Lords, three-fourths of the Upper House, as the Upper House then was, walked in solemn order from their usual place of assembling to the tribunal. The junior baron present led the way—Lord Heathfield, recently ennobled for his memorable defence of Gibraltar against the fleets and armies of France and Spain. The long procession was closed by the Duke of Norfolk, Earl Marshall of the realm, by the great dignitaries, and by the brothers and sons of the King. Last of all came the Prince of Wales, conspicuous by his fine person and noble bearing. The gray old walls were hung with scarlet. The long galleries were crowded by such an audience as has rarely excited the fears or the emulation of an orator. There were gathered together, from all parts of a great, free, enlightened and prosperous realm, grace and female loveliness, wit and learning, the representatives of every science and of every art. There were seated around the queen the fair-haired young daughters of the house of Brunswick. There the ambassadors of great kings and commonwealths gazed with admiration on a spectacle which no other country in the world could present. There Siddons, in the prime of her majestic beauty, looked with emotion on a scene

surpassing all the imitations of the stage. There the historian of the Roman Empire thought of the days when Cicero pleaded the cause of Sicily against Verres ; and when, before a senate which had still some show of freedom, Tacitus thundered against the oppressor of Africa. There were seen, side by side, the greatest painter and the greatest scholar of the age. The spectacle had allured Reynolds from that casel which has preserved to us the thoughtful foreheads of so many writers and statesmen, and the sweet smiles of so many noble matrons. It had induced Parr to suspend his labors in that dark and profound mine from which he had extracted a vast treasure of erudition—a treasure too often buried in the earth, too often paraded with injudicious and inelegant ostentation ; but still precious, massive, and splendid. There appeared the voluptuous charms of her to whom the heir of the throne had in secret plighted his faith. There, too, was she, the beautiful mother of a beautiful race, the Saint Cecilia, whose delicate features, lighted up by love and music, art has rescued from the common decay. There were the members of that brilliant society which quoted, criticised, and exchanged repartees, under the rich peacock hangings of Mrs. Montague. And there the ladies, whose lips, more persuasive than those of Fox himself, had carried the Westminster election against palace and treasury, shone round Georgiana, Duchess of Devonshire.

The sergeants made proclamation : Hastings advanced to the bar, and bent his knee. The culprit was indeed not unworthy of that great presence. He had ruled a populous country ; had made laws and treaties ; had sent forth armies ; had set up and pulled down Princes. And in his high place he had so borne himself that all had feared him, that most had loved him, and that hatred itself could deny him no title to glory,

except virtue. He looked like a great man and not like a bad man. A person small and emaciated, yet deriving dignity from a carriage which, while it indicated deference to the Court, indicated also habitual self-possession and self-respect ; a high and intellectual forehead ; a brow pensive, but not gloomy ; a mouth of inflexible decision, a face pale and worn, but serene, on which was written, as legibly as under the great picture in the Council Chamber at Calcutta, *mens æqua in arduis* ;—such was the aspect with which the great procounsul presented himself to his judges.

His counsel accompanied him, men all of whom were afterwards raised by their talents and learning to the highest posts in their profession,—the bold and strong-minded Law, afterwards Chief Justice of the King's Bench ; the more humane and eloquent Dallas, afterwards Chief Justice of the Common Pleas ; and Plomer, who, nearly twenty years later, successfully conducted in the same high court the defence of Lord Melville, and subsequently became Vice-Chancellor and Master of the Rolls.

But neither the culprit nor his advocates attracted so much attention as the accusers. In the midst of the blaze of red drapery, a space had been fitted up with green benches and tables for the Commons. The managers, with Burke at their head, appeared in full dress. The collectors of gossip did not fail to remark that even Fox, generally so regardless of his appearance, had paid to the illustrious tribunal the compliment of wearing a bag and sword. Pitt had refused to be one of the conductors of the impeachment ; and his commanding, copious, and sonorous eloquence was wanting to that great muster of various talents. Age and blindness had unfitted Lord North for the duties of a public prosecutor ; and his friends were left without the help of his excellent

sense, his tact, and his urbanity. But, in spite of the absence of these two distinguished members of the Lower House, the box in which the managers stood contained an array of speakers such as perhaps had not appeared together since the great age of Athenian eloquence. There stood Fox and Sheridan, the English Demosthenes and the English Hyperides. There was Burke, ignorant, indeed, or negligent of the art of adapting his reasonings and his style to the capacity and taste of his hearers ; but in aptitude of comprehension and richness of imagination superior to every orator, ancient or modern. There, with eyes reverentially fixed on Burke, appeared the finest gentleman of the age—his form developed by manly exercise—his face beaming with intelligence and spirit—the ingenious, the chivalrous, the high-souled Windham. Nor, though surrounded by such men, did the youngest manager pass unnoticed. At an age when most of those who distinguish themselves in life are still contending for prizes and fellowships at college, he had won for himself a conspicuous place in Parliament. No advantage of fortune or connection was wanting that could set off to the highest his splendid talents and his unblemished honor. At twenty-three he had been thought worthy to be ranked with the veteran statesmen who appeared as the delegates of the British Commons at the bar of the British nobility. All who stood at that bar, save him alone, are gone—culprit, advocates, accusers. To the generation which is now in the vigor of life, he is the sole representative of a great age which has passed away. But those who, within the last ten years, have listened with delight, till the morning sun shone on the tapestries of the House of Lords, to the lofty and animated eloquence of Charles Earl Grey, are able to form some estimate of the powers of a race of men among whom he was not the foremost.

The charges and the answers of Hastings were first read. This ceremony occupied two whole days, and was rendered less tedious than it would otherwise have been by the silver voice and just emphasis of Cowper, the clerk of the court, a near relation of the amiable poet. On the third day Burke rose. Four sittings of the court were occupied by this opening speech, which was intended to be a general introduction to all the charges. With an exuberance of thought and a splendor of diction which more than satisfied the highly-raised expectation of the audience, he described the character and institutions of the natives of India; recounted the circumstances in which the Asiatic empire of Britain had originated; and set forth the constitution of the Company, and of the English Presidencies. Having thus attempted to communicate to his hearers an idea of Eastern society, as vivid as that which existed in his own mind, he proceeded to arraign the administration of Hastings, as systematically conducted in defiance of morality and public law. The energy and pathos of the great orator extorted expressions of unwonted admiration even from the stern and hostile Chancellor; and, for a moment, seemed to pierce even the resolute heart of the defendant. The ladies in the galleries, unaccustomed to such displays of eloquence, excited by the solemnity of the occasion, and perhaps not unwilling to display their taste and sensibility, were in a state of uncontrollable emotion. Handkerchiefs were pulled out; smelling bottles were handed round; hysterical sobs and screams were heard; and Mrs. Sheridan was carried out in a fit. At length the orator concluded. Raising his voice till the old arches of Irish oak resounded—"Therefore," said he, "hath it with all confidence been ordered by the Commons of Great Britain, that I impeach Warren Hastings of high crimes and misdemeanors. I impeach

him in the name of the Commons' House of Parliament, whose trust he has betrayed. I impeach him in the name of the English nation, whose honor he has sullied. I impeach him in the name of the people of India, whose rights he has trodden under foot, and whose country he has turned into a desert. Lastly, in the name of human nature itself, in the name of both sexes, in the name of every age, in the name of every rank, I impeach the common enemy and oppressor of all!"

When the deep murmur of various emotions had subsided, Mr. Fox rose to address the Lords respecting the course of proceeding to be followed. The wish of the accusers was, that the court would bring to a close the investigation of the first charge before the second was opened. The wish of Hastings and his counsel was, that the managers should open all the charges and produce all the evidence for the prosecution, before the defence began. The Lords retired to their own house to consider the question. The Chancellor took the side of Hastings. Lord Loughborough, who was now in opposition, supported the demand of the managers. The division showed which way the inclination of the tribunal leaned. A majority of near three to one decided in favour of the course for which Hastings contended. When the court sat again, Mr. Fox, assisted by Mr. Grey, opened the charges respecting Cheyte Sing, and several days were spent in reading papers and hearing witnesses. The next article was that relating to the Princesses of Oude. The conduct of this part of the case was intrusted to Sheridan. The curiosity of the public to hear him was unbounded. His sparkling and highly finished declamation lasted two days, but the Hall was crowded to suffocation the whole time. It was said that fifty guineas had been paid for a single ticket. Sheridan, when he concluded, contrived, with a knowledge of

stage effect which his father might have envied, to sink back, as if exhausted, into the arms of Burke, who hugged him with the energy of generous admiration ?

June was now far advanced. The session could not last much longer, and the progress which had been made in the impeachment was not very satisfactory. There were twenty charges. On only two of these had even the case for the prosecution been heard ; and it was now a year since Hastings had been admitted to bail.

The interest taken by the public in the trial was great when the court began to sit, and rose to the height when Sheridan spoke on the charge relating to the Begums. From that time the excitement went down fast. The spectacle had lost the attraction of novelty. The great displays of rhetoric were over. What was behind was not of a nature to entice men of letters from their books in the morning, or to tempt ladies who had left the masquerade at two to be out of bed before eight. There remained examinations and cross-examinations. There remained statements of accounts. There remained the reading of papers, filled with words unintelligible to English ears—with lacs and crores, zemindars and annuities, sunnuds and perwaunahs, jaghires and nuzzurs. There remained bickerings, not always carried on with the best taste or with the best temper, between the managers of the impeachment and the counsel for the defence, particularly between Mr. Burke and Mr. Law. There remained the endless marches and counter-marches of the Peers between their house and the Hall ; for as a point of law was to be discussed, their lordships retired to discuss it apart ; and the consequence was, as the late Lord Stanhope wittily said, that the judges walked and the trial stood still. It is to be added, that in the spring of 1788, when the trial commenced, no important question, either of domestic or foreign policy, excited

the public mind. The proceedings in Westminster Hall, therefore, naturally excited most of the attention of Parliament and of the public. It was the one great event of that season. But in the following year, the King's illness, the debates on the regency, the expectation of a change of ministry, completely diverted public attention from Indian affairs, and within a fortnight after George the Third had returned thanks in St. Paul's for his recovery, the States General of France met at Versailles. In the midst of the agitation produced by those events, the impeachment was for a time almost forgotten.

The trial in the Hall went on languidly. In the session of 1788, when the proceedings had the interest of novelty, and when the Peers had little other business before them, only thirty-five days were given to the impeachment. In 1789, the Regency Bill occupied the Upper House till the session was far advanced. When the King recovered, the circuits were beginning. The judges left town; the Lords waited for the return of the oracles of jurisprudence; and the consequence was, that during the whole year only seventeen days were given to the case of Hastings. It was clear that the matter would be protracted to a length unprecedented in the annals of criminal law.

In truth, it is impossible to deny that impeachment, though it is a fine ceremony, and though it may have been useful in the seventeenth century, is not a proceeding from which much good can now be expected.

Whatever confidence may be placed in the decisions of the Peers on an appeal arising out of ordinary litigation, it is certain that no man has the least confidence in their impartiality, when a great public functionary, charged with a great state crime, is brought to their bar. They are all politicians. There is hardly one among them whose vote on an impeachment may not be confi-

dently predicted before a witness has been examined ; and even were it possible to rely on their justice, they would still be quite unfit to try such a cause as that of Hastings. They sit only during half the year. They have to transact much legislative and much judicial business. The law lords, whose advice is required to guide the unlearned majority, are employed daily in administering justice elsewhere. It is impossible, therefore, that during a busy session, the Upper House should give more than a few days to an impeachment. To expect that their lordships would give up partridge shooting in order to bring the greatest delinquent to a speedy justice, or to relieve accused innocence by a speedy acquittal, would be unreasonable indeed. A well constituted tribunal, sitting regularly six days in the week, and nine hours in the day, would have finished the trial of Hastings in less than three months. The Lords had not finished their work in seven (7) years.

The result ceased to be a matter of doubt from the time when the Lords resolved that they would be guided by the rules of evidence which are received in the inferior courts of the realm. Those rules, it is well known, exclude much information which would be quite sufficient to determine the conduct of any reasonable man in the most important transactions of private life. Those rules, at every assizes, save scores of culprits, whom judges, jury, and spectators firmly believe to be guilty. But when those rules were rigidly applied to offences committed many years before, at the distance of many thousand miles, conviction was of course out of the question. We do not blame the accused and his counsel for availing themselves of every legal advantage in order to obtain acquittal. But it is clear that acquittal so obtained cannot be pleaded for in bar of the judgment of history.

Several attempts were made by the friends of Hastings

to put a stop to the trial. In 1789 they proposed a vote of censure upon Burke, for some violent language which he had used respecting the death of Nuncomar, and the connection between Hastings and Impey. Burke was then unpopular in the last degree both with the House and with the country. The asperity and indecency of some expressions which he had used during the debates on the Regency had annoyed even his warmest friends. The vote of censure was carried, and those who had moved it hoped that the managers would resign in disgust. Burke was deeply hurt. But his zeal for what he considered as the cause of justice and mercy triumphed over his personal feelings. He received the censure of the House with all dignity and meekness, and declared that no personal mortification or humiliation should induce him to flinch from the sacred duty which he had undertaken. In the following year the Parliament was dissolved; and the friends of Hastings entertained a hope that the new House of Commons might not be disposed to go on with the impeachment. They began by maintaining that the whole proceeding was terminated by the dissolution. Defeated on this point, they made a direct motion that the impeachment should be dropped; but they were defeated by the combined forces of the government and the opposition. It was, however, resolved that, for the sake of expedition, many of the articles should be withdrawn. In truth, had not some such measure been adopted, the trial would have lasted till the defendant was in his grave.

At length, in the spring of 1795, the decision was pronounced, nearly eight years after Hastings had been brought by the sergeant-at-arms of the Commons to the bar of the Lords. On the last day of this great procedure, the public curiosity, long suspended, seemed to be revived. Anxiety about the judgment there could be

none ; for it had been fully ascertained that there was a great majority for the defendant. But many wished to see the pageant, and the Hall was as much crowded as on the first day. But those who having been present the first day, now bore a part in the proceedings of the last, were few, and most of the few were altered men.

As Hastings himself said, the arraignment had taken place before one generation, and the judgment was pronounced by another. The spectator could not look at the woolsacks or at the red benches of the Peers, or the green benches of the Commons, without seeing something that reminded him of the instability of all human things ;—of the instability of power, of fame, and life, of the more lamentable instability of friendship. The great seal was borne before Lord Loughborough, who, when the trial commenced, was a fierce opponent of Mr. Pitt's government, and who was now a member of that government ; while Thurlow, who presided in the court when it first sat, estranged from all his old allies, sat scowling among the junior barons. Of a hundred and sixty nobles who walked in the procession on the first day, sixty had been lain in their family vaults. Still more affecting must have been the sight of the managers' box. What had become of that fair fellowship, so closely bound together by public and private ties, so resplendent with talent and accomplishment ?

It had been scattered by calamities more bitter than the bitterness of death.

The great chiefs were still living, and still in the full vigor of their genius. But their friendship was at an end. It had been violently and publicly dissolved with tears and stormy reproaches. If those men, once so dear to each other, were now compelled to meet for the purpose of managing the impeachment, they met as strangers whom public business had brought together,

and behaved to each other with cold and distant civility. Burke had in his vortex whirled away Windham : Fox had been followed by Sheridan and Grey.

Only twenty-nine peers voted. Of these only six found Hastings guilty, on the charges relating to Cheyte Sing and the Begums. On other charges the majority in his favor was still greater. On some he was unanimously absolved. He was then called to the bar, informed from the woolsack that the Lords had acquitted him, and solemnly discharged. He bowed respectfully and retired.—*Macaulay*.

CHAPTER XXI.

TRIAL OF QUEEN CAROLINE.

THE trial of Queen Caroline was one of the most important events in the annals of Westminster Hall.

Caroline of Brunswick, it may be as well to remind the reader at the outset, was in the fifty-third year of her age when these proceedings commenced.¹ In 1796, after a single year of cohabitation, she had lived apart from her husband, whose whole life and conduct, ever since the first day of their unfortunate union, had been, and down to the period now under consideration had continued to be, one unbroken course of bare-faced and notorious profligacy.

In August, 1814, the Princess had left England for the Continent (almost as soon as the Continent was open), and had resided there, principally in various parts of Italy, but occasionally making excursions as far as Egypt and the Holy Land, till the death of George III., at the commencement of the year 1820, made her titular Queen of England.

Her own conduct, during her six years' residence abroad, even if it had not provably overstepped the line which separates levity from guilt, had been, at all events, reckless and compromising to the extremest verge of imprudence.

In 1818, at the suggestion of Sir John Leach, then Vice-Chancellor of England (a favorite of the Regent and a rival of Lord Eldon, whose high office he coveted),

¹ Caroline Amelia of Brunswick ; born, May 17, 1768 ; married, April 8, 1795 ; separated, April 30, 1796 ; died, August 7, 1821, in her fifty-fourth year.

there was issued, with the sanction of the then Cabinet, a Secret Commission to investigate and report on the alleged irregularities of the Princess. This Commission, called, from the principal place of its sittings, the Milan Commission, submitted to the Cabinet a secret report, which charged Caroline with several acts of flagrant and scandalous immorality, especially with having carried on an adulterous intercourse with her Italian chamberlain, Bergami.

The first result of this damaging secret report was soon to be made public. On February 11, 1820, within a fortnight after the accession of George IV., the name of the Queen, as Caroline had then become, was by solemn Order in Council directed to be omitted from the Liturgy. This public insult, the crowning sequence to innumerable acts of petty persecution during the long years of her continental residence, seems to have finally determined the Queen to brave all risks, and return at once to England, to clear her character and claim her rights.

This determination was strongly supported (if not originally suggested) by that party among her advisers whose leader was the famous Alderman Wood (father of the late Chancellor, Lord Hatherley), and was as strongly discountenanced by Brougham, who had for some time been her principal legal adviser, and who, as subsequent events proved, had formed a much sounder judgment than her more hot-headed supporters as to the course best suited to her real interests.

In reading Denman's personal narrative, this species of antagonism between Brougham and Wood must not be lost sight of: it explains a good deal of the jealousy and suspicion which the Queen appears throughout to have entertained with regard to her principal legal adviser.

Denman, who knew far less than Brougham of the Queen's antecedent conduct, and whose chivalrous temper led him principally to regard her as "the most wronged and insulted of womankind," occupied a sort of middle position between Brougham and Wood ; but he was occasionally more inclined than his less enthusiastic leader to take part with what may be called the extreme left of the Queen's adherents.

As to the great body of the People, they, with the rough instinct of English generosity, inflamed in this instance by dislike and distrust of the Government, sided heartily with the weaker party, who, even if she had been culpably imprudent, nay, it might be criminal in her conduct, had at all events been most atrociously ill-treated by the husband who was now hunting her down to her destruction. As Lord Brougham has well expressed it in his "Autobiography:" "the strength of the Queen's case lay in the general demurrer which all men, both in and out of Parliament, made, viz., admit everything to be true which is alleged against the Queen, yet, after the treatment she has received ever since she first came to England, her husband had no right to the relief prayed by him, or the punishment sought against her."¹

With these few words of preliminary explanation we proceed to cite verbatim from the autobiographical fragment, which is headed "The year 1820," and commences thus :

"THE YEAR 1820."

"I am not quite sure whether it was not at the close of the preceding year (1819) that Brougham told me a

¹ "Brougham's Memoirs," vol. ii. pp. 383, 386.

² Narrative of the trial, in manuscript, by Lord Denman.

general retaining fee would be left at my chambers for Her Royal Highness the Princess of Wales. It was brought in a mysterious manner by a clerk from Coutts', who, I believe, knew nothing of the contents of the packet.

"A short time after the king's death Brougham happened to attend a consultation at my chambers in the great case of the *King v. Parkyns, Waithman and others*, for obstructing the election of the Lord Mayor. At the close of the conference he stayed behind and talked to me about our royal client, then Queen of England. He asked me if I would accept the office of Solicitor-General to Her Majesty, and I instantly agreed to do so. He sent off Sicard to Her Majesty, who then doubted whether she would come to England, but soon sent back warrants appointing Brougham and myself her law officers.

"Brougham was strongly of opinion that she would continue abroad. In the course of the preceding summer negotiations had commenced between him and the ministers of the Prince Regent, though without direct authority from the Princess, for a complete separation, including her foreign residence. He justly observed that that project, however practicable while she was a subject, became infinitely more difficult on her accession to the royal title, and as it was known that her conduct had undergone an investigation by the Milan Commissioners, any surrender of her rights would have been regarded as a confession of her guilt. It would have been hard to call on the overburdened people to pay a magnificent allowance to one who, by submitting to her own degradation, would have appeared to sanction the truth of slanderous reports industriously circulated against her, and there is a good deal of probability in the supposition that if she had acquiesced in such an arrangement the

House of Commons would not have agreed to carry it into effect. With the people at large she would certainly have lost all credit, and might have found herself placed wholly at the mercy of a mean-spirited and vindictive husband.

"I have reason to believe that such views actuated the conduct of Alderman Wood—a man whose intellect has been much underrated in consequence of Brougham's attack on him after the Queen's arrival.¹ He unquestionably possessed uncommon perseverance and activity, no small share of natural sagacity, and much acquaintance with the character of the English people.

"Tierney's game [as leader of the Whig Opposition] was, if I may so express it, one of alternative policy; either the Queen is insulted, or the King betrayed. If she is innocent, ministers are deserving of severe censure for bringing her into suspicion and disrepute: if she is guilty it is due to the King and the State to insist on a divorce. He rather preferred the latter position, as personally most agreeable to the King, and even when the People had so loudly declared for the view of the subject implied in the former he could not resolve to take complete advantage of the popular feeling and opinion. His constant object seemed to be to induce a belief in the King's mind that he and his party would be able to effect that divorce which his actual ministers hesitated to propose. This scheme might have been assisted by Sir John Leach, the Vice-Chancellor, the great promoter of the Milan Commission, who was on good terms with many leading members of the Opposition (though he had deserted that party) and would

¹ In the course of the speech alluded to Brougham excited the merriment of the House and country by suggesting that the initials A. W. (Alderman Wood) might stand also for *Absolute Wisdom*, which thenceforth became a popular nickname of the Alderman.

probably have been glad to bring them into power. He was known to be on bad terms with Lord Castlereagh, and certainly wished to displace and succeed the Chancellor [Lord Eldon] who disliked and despised him.

“ I have always thought that the Whigs, by accepting office on condition of carrying the measure of divorce, would have undone themselves forever with the public, and even in the present¹ unprosperous state of their affairs, I think them fortunate in having escaped that snare. But the general feeling had not declared itself, and Tierney was watching for an opportunity to turn out the Ministry by appearing more ready than they had shown themselves to comply with the wishes of the King.

“ He [Tierney] sent for me when I was leaving London for the spring circuit, to discuss my coming into the next Parliament. After mentioning various places where an impression might be made, he said he hoped the report he had heard of my accepting a law appointment from the Queen was untrue. I immediately avowed it, saying that I had received a retainer from Her Majesty (when Princess of Wales) some time before ; that I could not refuse to act for her in the great cause that was expected, and that I thought it impossible, when it was offered me, to refuse the rank which it is in the power of the Queen of England to confer on a barrister, without betraying a degree of indifference to her interests which would justly induce her advisers to exclude me from the defence. He said that there was indeed no great chance of the Whigs coming into power, but if they did the King might perhaps object to adopt the Queen's Solicitor-General for his. My answer was that if that should happen I could only lament it. I remember his adding, with a laugh, that the King might possibly take some strange

¹ Written in 1821.

turn, and consider that as a recommendation, and we agreed, that as the Queen was advanced in years and reported to be grown very fat¹ it was not impossible that her husband might fall violently in love with her. Upon the whole, Tierney seemed satisfied that I could not have declined the appointment.

"On returning to London [after his election for Nottingham, as related in the preceding chapter] I found Brougham still in expectation that the Queen would not come to England, though she appeared to be on the move. Her Majesty had sent duplicates of our appointments, and it now became necessary to take decisive steps. We had both written to the Chancellor, requesting precedency at the bar, and had thus given him an opportunity of promoting us in the manner usual with regard to attorneys and solicitors-general to the Queen. He took no notice of these applications, and thus compelled us to announce our new situation. We produced our warrants to his lordship in the common room at Lincoln's Inn; he expressed his doubts whether they ought not to be stamped. We put forward the usual practice of giving to the Queen's officers the rank of King's Counsel. He courteously denied that this was a matter of right, referring to the case of Serjeant Vaughan, who was some years Solicitor-General to Queen Charlotte without being made King's Serjeant. The precedent had probably been established by his lordship from a prudent foresight of the difficulty that now arose. His conversation was extremely skilful. Brougham said to me, when walking away, 'Do you observe how much more subtle the serpent is than all the beasts of the field?'

"We went to Somerset House the next day to get our

¹ The King's taste in women was popularly described by the well-known alliteration "fat, fair, and forty."

warrants stamped, and called upon the several judges to notify what had happened. Doubts were entertained by the Benchers whether we should be called to the bench [of Lincoln's Inn] ; some of the shabby politicians were for excluding us, but Sir William Grant [Master of the Rolls] moved for our call, which was then unanimous.

"The first case moved by me in my new station was that of Sir Francis Burdett, convicted of a [political] libel at Leicester (March 20, 1820). The whole of the proceedings are of course well known to lawyers. I have never had a doubt that the conviction was against law ; that if I had acted for him as counsel at the trial in the usual manner, he would have been acquitted ; and that the information itself was erroneous for uncertainty. He himself addressed the jury less ably than could have been expected, and without knowing how to avail himself, as any lawyer would, of the technical defects in the proof. It is one of the most mortifying circumstances of my professional life, not only to have unrighteous sentences pronounced against my clients, when charged with political offences, but to hear the judges lay down principles destructive to constitutional freedom, and at variance with the very elements of justice. On this occasion Mr. Justice Bayley acted a noble part, and gave reasons for differing from the rest of the court, which remained without an answer. He incurred thereby the lasting hatred of tyrants and sycophants—the most unequivocal of all proofs of fidelity and honesty in a judge.¹

"Whether the Queen would come to England was still very doubtful. She had, indeed, left Italy and gone to Geneva, but was reported there to have said that she

¹ Afterwards Mr. Baron Bayley ; created a baronet on his retirement from the Bench, in 1834, after twenty-six years of eminent judicial service. The case of *The King v. Burdett* is reported in 4 *Barnewall and Alderson*, p. 95 et seq.

had no intention of coming to England. I imagine that Her Majesty's wish was that Brougham should go out to her there, in which case she would probably have renewed the negotiations of the preceding year, and perhaps have forever broken off all relations with a country which could possess few charms for her. Her daughter dead, her husband alienated, the higher ranks deterred by his known displeasure from paying her any outward tokens of respect, the minds of all persons filled with suspicions of her conduct, and with disgust at the infamous stories in circulation—how could it be desirable for her to establish herself in England?

“The Alderman, however, had resolved that the Queen should come to this country, and was probably confirmed in his resolution by observing Brougham's cordial disinclination to that proceeding. He often spoke to me on the subject, consulted me as to the proper course to be pursued, and on my answering him in general terms, saying that Her Majesty must decide from her knowledge of her own conduct whether she would face her enemies or not, he desired me to give an opinion in writing that she ought to come. This proposal I declined, on the current lawyers' plea, that no written opinion can be given except on a written case, *but added that from all I heard and knew, it would be desirable that she should come.* One night he walked late with me from the House of Commons, and told me he was determined to go for her at Geneva. In a day or two he was gone.

“Brougham still flattered himself that negotiations might succeed in preventing her from landing in this country; but this was in truth entirely hopeless after her arrival in the French territory, and most manifestly so when she was at St. Omer's, within a few leagues of England. [She reached St. Omer's on the 1st of June.] If it had been questionable whether her continued resi-

dence in Italy would not have endangered her honor, her station, and her safety, her sudden retreat after so great an advance would have been an utter abandonment of them all. Brougham still had hopes: the terms he was authorized to propose (50,000*l.* a year, and all the rights of a Queen Consort, especially as regarded money and patronage, on consenting to live abroad) were indeed magnificent, if the Queen was guilty. Relying on them, on his personal influence and unbounded talents, he forced the determination to accompany Lord Hutchinson, the emissary of the Cabinet, to Boulogne."

It is not necessary to follow the personal narrative in the details that immediately follow this: suffice it to say that Brougham's negotiation, as it appears in his memoirs, completely failed. The terms offered were indignantly rejected, and the Queen, in spite of his remonstrances, and without any notice to him, on June 4, in company with Alderman Wood and Lady Ann Hamilton, left St. Omer's for London, where she arrived on the 6th. Brougham, in his very natural indignation at this proceeding, hastily wrote a strong letter to Denman, intimating the probability of his ceasing to be her chief legal adviser, and containing the expression, "I suppose she will have Wood for her Attorney-General." The personal narrative then proceeds as follows:

"I received that letter on the day of Brougham's return to London (June 6), and communicated its contents to John Williams, who was delighted with the prospect of my becoming Attorney-General to the Queen, and himself her Solicitor. I went to the House of Commons expecting to hear Lord Castlereagh's denunciation of Her Majesty, fully believing myself to be at that time her only law-officer, and perfectly resolved to discharge all the duties attached to that character. Lord Castlereagh threatened that a message from His Majesty (the mes-

sage communicating the papers connected with the Milan inquiry, sealed up, as the custom is, in a green bag—hence called the Green Bag Papers) would forthwith be brought down to the House. Brougham had not then appeared since his arrival from the Continent, but he entered the House while Lord Castlereagh was speaking. On behalf of the Queen I thought it right to put a question as to the course intended. Brougham then observed to some persons near him that the ministerial threat prevented him from resigning.

“ By this time the Queen had arrived in London ; a summons, written by Lady Ann Hamilton, was brought to me at the House by a low person (an election agent of Wood’s), who was so drunk when he brought it that the officers in attendance turned him forcibly out of the lobby. In obedience to the command, I instantly went to the Alderman’s house in South Audley Street, and having, with the utmost difficulty, got admission through the multitude, I there awaited the royal personage to whose service I was bound.

“ Her progress was slow through the countless populace, her travelling equipage mean and miserable ; her attendants appeared ill-calculated to conciliate good-will in this country. Hardly a well-dressed person was to be seen in the crowd. Two or three men on horseback assumed a rather more respectable appearance ; but one of these was my bankrupt cousin John Holloway ; another, a sheriff’s broker well-known in courts of justice. I need not relate that the Alderman was seated in the carriage by Her Majesty’s side, and Lady Ann Hamilton sat opposite. It was an open barouche of shabby appearance. Six or seven carriages followed ; on the box of one was a man with a turban, in another Hieronymo and Carlo Forti, with immense mustachios. The press of people, the cheers, the acclamations, beggared all de-

scription. They were long in sight before they reached the door, and long after they reached it before any of them could dismount and ascend the steps. From the drawing-room window I had ample opportunity to survey at leisure Her Majesty and the whole calvacade.

“What a melancholy contrast to regal state ! Nothing ever gave me a deeper impression of sadness than the aspect of this forlorn-looking court, though the enthusiastic shouts of the people and the courage that shone in the fixed eye of the Queen somewhat roused my spirits, and made me feel proud of my royal mistress. She was dressed in mourning for the late king, with a ruff on the model of Queen Elizabeth’s ; her step was assured, her bearing firm and graceful ; and when, after a short delay, she, at the Alderman’s desire, went forth on the balcony and saluted the people, nothing could be more noble or attractive than her manner, look, and gestures.

“She received me with some general compliments, and then began to converse on her own affairs, complaining that the conduct of ministers had made it necessary for her to come to England. Speaking with the greatest animation, she often asked, ‘If they wished me to stay abroad, why not leave me there in peace ? No woman of character could submit to the insults they have offered.’ Then, having enumerated a variety of circumstances that appeared to leave her no alternative, she often repeated, like the burden of a song, ‘And so here I am.’ She was extremely exasperated against Brougham, and when I said that he would be ready to obey her commands, she said very coldly that she should be glad to see him, but her opinion of him was much altered—she even spoke of his betraying her. I obtained permission to bring him after Her Majesty’s dinner, and went to him at his house in Hill Street, Berkley Square, in the immediate neighborhood.

“ Here, in the most solemn and alarming manner, he laid open to me all his apprehensions on the subject of the Queen's case. He had received from various quarters the most sinister reports, and that with too much credulity. I shall never forget the tone and manner with which he said to me, at the close of a long series of awkward statements, ‘ So now we are in for it, Mr. Denman.’ I complained a little of having been kept so much in the dark about these suspicions, but he observed that it would have done no good to have communicated them to me. We had, indeed, small inclination to look back ; all our thoughts were directed to the future.

“ Let me here state, once for all, that from this moment I am sure that Brougham thought of nothing but serving and saving his client. I, who saw him more nearly than any man, can bear witness that from the period in question his whole powers were devoted to her safety and welfare. He felt that the battle must be fought, and resolved to fight it manfully, and ‘ to the utterance.’

“ Nothing remarkable passed on our return to Her Majesty, except that she suffered Brougham to leave the room first, and detained me some moments with an observation on him. She said, ‘ He is afraid.’ She was certainly right, but his fears were on her account, not on his own.”

Brougham lost no time in commencing the struggle. On the next day (June 7), the Green Bag having been previously communicated to both Houses, and a select committee of fifteen peers having been appointed in the Lords to inquire into and report on its contents, Lord Castlereagh moved for the appointment of a similar committee in the Lower House. This was opposed by Brougham in a memorable speech, in which he at once entered into the whole case, and produced such an effect

on the House that the appointment of a select committee of the Commons had to be deferred, and was finally abandoned. It was in this speech that he made the house merry by his remarks on "Absolute Wisdom." The personal narrative thus describes the effects of Brougham's masterly advocacy :

"The Green Bag having come down, the general nature of the charges was opened, and Brougham made his incomparable speech, so terrifying to the country gentlemen. Half a dozen of them, one after the other, rose to implore the noble lord (Lord Castlereagh) not to press the matter further ; not from any feeling for the unhappy Queen, not from any sense of attachment to the despicable King, but because they thought their property might be compromised by the proceeding. They spoke and acted just in the same spirit as when an agricultural tax is to be repealed, or the price of corn raised by Act of Parliament. This timid, selfish, and purse-proud race, who love and cherish a ministry in proportion to its weakness, because their own importance is increased in the same ratio, just went far enough to condemn themselves and the ministers in the course that was taken (viz. deferring the appointment of the committee), without daring to act decisively on the principles of justice and sound policy, and crush the proceedings altogether.

"On the night of Brougham's great speech, I called at Wood's house about an hour after midnight to make my report of it, but the Queen had retired to rest. On the next day, feeling the great importance of preserving a good understanding between the Queen and her Attorney-General, I made the most favorable report in my power of his mighty exertion on the preceding evening. Her answer was delivered with great coolness, 'I saw he would make a good speech ;' but her indifference proceeded less perhaps in this instance from any resentment

towards Brougham than from a general sense of the inutility of speeches, which often betrayed itself.

“The Queen’s unfortunate distrust of Brougham broke out in various ways. She knew his value, but I am certain that his resignation would have been satisfactory to her. All her immediate attendants contributed to foment her jealousy of him,—the Alderman, Lady Ann Hamilton, and shortly after Dr. Parr.

“Brougham could not but be sensible how much of her confidence he had forfeited, and the effect on his conduct was attended with mischievous consequences, the worst of which was the want of countenance and attention from the Whig ladies of quality. If he had sent Mrs. Brougham to pay her respects on Her Majesty’s arrival, many of these ladies, with whom he was living upon terms of the greatest intimacy, would have followed her example, particularly the Countess of Jersey, whose popularity in the fashionable world was unbounded. A report was spread that she had confidentially asked Brougham for his advice, and that he exhorted her to abstain from calling. The truth of this is unknown to me, but it is certain that when the newspapers inserted Lady Jersey’s name and that of Lady Fitzwilliam among the visitors at the Queen’s miserable residence in Portman Street [Lady Ann Hamilton’s, to which she had removed from South Audley Street] the statement received a formal contradiction.

“My wife was extremely anxious to call, but I begged her to wait till Mrs. Brougham should do so, *dreading that such scenes of vice and debauchery would be proved as would overwhelm with shame any woman who had formed any acquaintance with the criminal.*

“I have often regretted this weakness, but whoever considers the abominable slanders that were then freely circulating in society, and remembers that Brougham

had infinitely better means than myself of appreciating their truth, will not perhaps entirely condemn it. Besides, I had not been honored by the Queen's previous notice, and Mrs. Denman filled no rank in society, and mingled very little with the world. At the same time her view of the case now appears to me perfectly right, and my own erroneous. The visit would have been a homage due to the rank of my royal mistress, and would have been justified by it and by my official relation to her, as long as the charges were unproved, even if they could have been established afterwards, while its being withholden bore the appearance of a knowledge on the part of her legal defenders that her conduct had been disgraceful, and thus to a certain degree assisted the evidence against her."

The above passage appears hardly just either to Brougham or to Denman himself. As far as Brougham is concerned, it seems not fair to suppose that his conduct in this matter was mainly or at all influenced by the Queen's obvious distrust or dislike towards himself. It was not because the Queen distrusted or disliked him that Brougham hesitated at this stage of the proceedings to commit his wife or the ladies of the Whig nobility to a distinct espousal of the Queen's cause. The words above printed in italics seem to supply quite a sufficient reason for the line taken at this period both by Brougham and by Denman. Neither could then know what might or might not be proved against the Queen. It must further be observed, as Denman indeed intimates, and as Brougham in his "Autobiography" has expressly stated, that the latter was acquainted with circumstances unknown to the Queen's other advisers, "of great indiscretions on her part, though entirely unconnected with the charges now made against her." The knowledge of these circumstances no doubt influenced Brougham's con-

duct and demeanor in the earlier part of the proceedings, and greatly accounted for the Queen's distrust.

"In this state of destitution [the personal narrative proceeds], without more than half a dozen ladies of rank and character having even left their cards at her door, it was marvellous to contrast the Queen's daily life with the royal spirit that sustained her. Tindal will never forget the look and gesture with which she said to us, in her miserable back drawing-room in Portman Street: 'I will be crowned.' Her popularity meanwhile continued to increase. The season of addresses set in. The Lord Mayor and Common Council filled Oxford Street with their long string of carriages, and were received with grace and dignity by the woman who occupied the highest rank in Europe in two mean drawing-rooms of an inferior ready-furnished house. When that body had retired, she greeted the populace assembled in that narrow street from a little railed balcony, on which Alderman Wood spread a shabby rug to distract the impertinent gaze of those who stood directly beneath. Frequently in the course of a day she was called to the window by the crowd and appeared. When she took an airing, it was in a hired chariot and pair, driven by a post-boy, with Lady Ann Hamilton by her side within, and William Austen and the black seated on the dicky. Popularity, indeed, was secured, but I have always thought that more of it, and of a better sort, might have been acquired by a very different line of conduct."

While the secret committee of the Lords were engaged in examining the Green Bag papers, various attempts at an amicable arrangement were unsuccessfully made. One of the earliest of these was the conference between the Duke of Wellington and Lord Castlereagh as representing the King, and Brougham and Denman as representing the Queen. The points to be discussed were: 1.

The future residence of the Queen abroad ; 2. The title to be assumed by her ; 3. The nature of the patronage she was to exercise in England ; 4. The income to be assigned to her for her life.

The first meeting of this conference took place on June 14 ; on the 19th the negotiations were finally broken off, the Queen wholly rejecting the conditions proposed with reference to the first point, viz., her foreign residence.

The circumstances connected with this meeting are thus related in the personal narrative :

" We were received by Lord Castlereagh in his parlor, after he had entertained a party of foreign ambassadors. He was covered with diamonds, stars, and ribands ; the Duke of Wellington was equally splendid. We two meagre lawyers must have formed an amusing foil to the eye of a painter, but Lord Castlereagh answered our apologies about inferior rank by assuring us that it was their wish to meet us as men of business, rather than persons of high station and formality. He assumed an air of agreeable frankness, and contrived to place himself in a position which cut me off, as the left wing, from Brougham's main body. My leader showed great address in introducing the subject of the Liturgy, which had not at that time been brought forward in a manner at all proportionate to its importance. Speaking of some expedient to reconcile Her Majesty to a stipulation that she would reside on the Continent, to which he merely said that she had no *insuperable objection* (though, in fact, this was the basis of our negotiation), he suggested in a sort of hurried whisper that the restoration of her name to the Liturgy might answer that purpose. Lord Castlereagh promptly replied, ' You might as easily move Carlton House. ' "

This conference having come to nothing, the House of

Commons, on June 22, passed a resolution, on the motion of Wilberforce, declaring their opinion that, when such considerable advances had been made toward an adjustment, Her Majesty, by yielding to the wishes of the House, and forbearing to press further the propositions on which a material difference still remained, would not be understood as shrinking from inquiry, but only as proving her desire to acquiesce in the opinion of Parliament.

In the debate that ensued on this motion of Wilberforce's, Denman made a powerful and impressive speech, in the course of which he pronounced a few memorable words, the sudden coinage of high-wrought emotion, which were soon current throughout all ranks of society. In reply to the suggestion that, though all particular mention of the Queen's name was omitted from the Liturgy, she might yet be considered as being comprised in the general prayer for the royal family, he said, in a tone of the deepest and most solemn pathos, that "if Her Majesty was included in any general prayer, it was the prayer *for all that are desolate and oppressed.*"

The personal narrative relates as follows the debate on Wilberforce's motion, the presentation of the House of Commons' address, and its rejection by the Queen :

"This important motion was introduced by Wilberforce in an excellent and most conciliatory speech, but in the course of the debate Lord Castlereagh avowed that Her Majesty's name had been deliberately excluded from the Liturgy with the intention of fixing a stigma upon her (he spoke of it as an act done by the King himself in his closet). This expression was conveyed to her by I know not whom, most probably by Wood, who privately told me of his great aversion to her quitting the country on any terms whatever, and Lady Ann Hamilton wrote me a letter, which was received by me during

the debate, strongly announcing the Queen's determination not to enter into any further stipulation after such an avowal. Her Majesty had hesitated and continued to hesitate ; but was, I firmly believe, decided by the circumstance now alluded to. Without feeling confident that the advice of the House of Commons would have been followed if the minister had abstained from that ill-timed insult, I can distinctly declare that it was the decisive weight that actually turned the balance.

“ Many well-wishers of the Queen thought her rejection of the proffered mediation unwise. Wood's view of the matter was this : ‘ If she leaves the country she confesses guilt ; she will be hooted by the people to the shore ; and I, for one, will not vote her a farthing of the public money.’ I think he was right ; an acceptance of the offer would have been to withdraw herself from the protection of the people, and place herself at the mercy of the King and the ministry, *i. e.* of a majority of the House of Commons.

“ The interval of two or three days that passed between this vote and the Saturday when the address was to be presented, was full of irresolution and anxiety. Her Majesty frequently asked advice. Her own feeling appeared to be unfavorable to any terms of compromise ; but so much was there of uncertainty to the very last, that when Brougham and I attended a little before the appointed hour, we entertained opposite opinions as to the course that would probably be chosen by her. We found the Queen, however, determined to decline the meditation. She had prepared a written answer to that effect, composed, I believe, by a Mrs. Grimani, who was much with her. It did not appear to us quite proper in point of style, and each of us produced one which we had prepared according to our respective calculations—Brougham's acquiescing, mine rejecting.

From these two we framed that which was delivered, and which I was in the act of writing out when the deputation arrived.

“ Nothing could exceed the stateliness of manner with which Her Majesty received these leading members of the House of Commons (Wilberforce, Banks, Wortley, M. P. for Yorkshire, Sir T. Acland, for Devonshire). Wilberforce complained afterwards of the coldness she displayed. In our great wigs and gowns, Brougham stood on her right, I on her left, and he read the answer. After they had kissed her hand, kneeling, they immediately withdrew, not without some apprehension of violence from the vast crowd assembled in the streets. As we got into our carriage we were eagerly asked what answer Her Majesty had given, and warmly greeted with acclamation when her refusal was made known.

“ It was Saturday, but the House met to receive Her Majesty's answer to the address. The scene was rather ludicrous, for Wilberforce could not be found, and Mr. Stuart Wortley, who had seconded the motion and was one of the deputation, proceeded to read it to the House standing at the bar. Before he had finished Wilberforce came in, and stationed himself behind his shoulder, occasionally correcting both the language and his emphasis. Both were evidently displeased. The message was heard in dead silence, and an adjournment immediately followed.

“ Never shall I forget the apparent mortification of these baffled mediators: the wound inflicted on their own self-sufficiency they avenged by indulging the bitterest personal resentment against the Queen. Instead of admiring her courage and constancy, instead of pausing to consider how far her conduct on this occasion could be reconciled with the suppositions of conscious guilt, they found no consolation for their personal disap-

pointment but in anticipating her destruction and disgrace. Their address had in effect proposed to recognize her innocence, on condition of her waiving her claim to have her name inserted in the Liturgy ; but when she had given the strongest proof that she prized her honor and her character above all earthly considerations, they instantly took the Green Bag for gospel, and were delighted at the prospect of crushing her with its contents. Never shall I forget the sort of hurried canvass that took place, and the animation with which honorable members encouraged one another to conspire the ruin of the most injured and insulted of womankind. ' I am for proceeding *now* ; are not you for going on with the business ? ' I never witnessed a scene more disgusting, or less honorable to human nature.

" In these observations I do not make the slightest allusion to Wilberforce himself, who acted throughout with views the most honorable and benevolent, and was unquestionably much concerned at the failure of his attempt. I speak of the country gentlemen who had on the former occasion *implored* Lord Castlereagh, out of tenderness to their land and bees, to spare the menaced constitution of the country, yet now were ready to hand it over to the King and his ministers, its worst enemies, to gratify the splenetic cravings of their wounded pride. But I have ever thought that Wilberforce may be justly reproached, in common with these persons, for not making one effort more to rescue the people and the King from the danger and the shame of that disgusting inquiry which now, like a pestilential vapor, impended over the country.

" His conduct in the subsequent session satisfied me that he was afterwards convinced of the mistake he had committed in proposing to address *the Queen*. An honest House of Commons would have addressed *the*

King, with a firm but earnest prayer that he would rescind the Order in Council for expunging the Queen's name from the Liturgy. That impolitic and unchristian act was as clearly illegal as anything can be for which no specific remedy is provided by law. The construction of the Act of Uniformity admitted of no reasonable doubt, and the propriety of the Order in Council was in no debate defended by any single member of either House of Parliament, except the ministers themselves. In the circumstances in which Her Majesty was placed, it was iniquitous and cruel to expect that she should be a consenting party to the sacrifice of any right ; but the legality of the proceeding adopted by the King's ministers being at least extremely questionable, while its impolicy and injustice could not be doubted, and were universally condemned, the Representatives of the People had a clear duty to perform. Of their disposition to perform that duty Wilberforce probably formed a just estimate, and abstained accordingly from bringing the proposal before them ; but I think it was due to his own character to record those sentiments which must have been entertained on the subject by every impartial man.

“ This is one of the numerous occasions on which the present ministers (1821) have found strength and security in the excess of their misconduct. They proclaimed their own responsibility for this Order in Council in that tone of pompous formality which led every one to suppose that it was in truth the King's personal act. Lord Castlereagh, in fact, in the debate on Wilberforce's motion, had spoken of it as an act done ‘ by the King himself in his closet.’ The country gentlemen accordingly felt that a vote of censure on the proceedings would have been a personal declaration of war against the King, and not one of them chose to incur such a hazard. Thus an ex-

press law was violated, an outrageous wrong was done to the first subject of the realm, then under accusation, and the King's ministers allowed him to commit himself personally in a matter in which his own feelings were notoriously wound up to the highest pitch ; and, for all these reasons, the House of Commons takes no step. The law remains violated, an unconstitutional and odious precedent is established, the individual injury remains undressed, the outraged feelings of the People vent themselves in angry murmurs which find a response in every bosom except those of their representatives, because no member of Parliament chooses to question the personal act of the King."

Things were now approaching a crisis. At the bar of the House of Lords, on June 26, an endeavor was made to induce the Secret Committee to suspend proceedings till after the arrival of the witnesses whose written depositions were contained in the Green Bag. Denman urged the delay with great energy and ability, and it was in the course of his speech on this occasion that he so hugely delighted Lord Eldon, by applying to his rival Leach, the great promoter of the Milan Commission, the celebrated quotation from "Othello":

"Some busy and insinuating rogue,
Some cogging, cozening slave, to get some office,
Must have devised this slander."

The application failed, and the disgusting inquiry took its course. On July 4 the Lords' Committee reported that the charges against the Queen ought to become the subject of a solemn inquiry, and on the 5th a Bill of Pains and Penalties, founded on this report, was introduced by Lord Liverpool. The preamble of this bill recited that the Queen had carried on a criminal intercourse with Bergami, and proposed to enact that she

should be therefore degraded from the title and station of Queen, and that the marriage should be annulled. What was usually called the Queen's trial, was, in form, an examination before the House of Lords of the truth of the recitals set forth in the preamble of the Bill of Pains and Penalties.

On July 6 counsel were heard on the mode and time of proceeding on the Bill, and on the 10th it was resolved that the trial (in the sense above indicated) should commence on August 17.

In addition to Brougham, Denman, Williams, and Tindal, there were at this time also retained as counsel for the Queen, Dr. Lushington and Mr. Wilde. Mr. Vizard continued to be her attorney. The retainer of Wilde was at first very distasteful to Denman, and rendered Brougham outrageous. Wilde had originally practised as an attorney, had been lately engaged as counsel for Wood in some mining transactions, and did not at that time stand high in the esteem of the profession. He had been brought into the case by Wood's influence with the Queen, without a word of communication with her law officers. Notwithstanding this unfavorable introduction, Wilde's talent and energy soon made themselves appreciated. "We were no sooner acquainted with him," says Denman, "than our prejudices vanished. He thought of nothing but success, and contributed most largely towards it. Extremely able and acute, generally very judicious, always active and persevering in the highest degree, his habits as an attorney qualified him for many things to which counsel are incompetent." From this point we will again follow for a time the text of the personal narrative :

"Our circuits now took us from London, and we left the Queen to the care of Dr. Lushington, and occasionally of Wilde, who did not travel the whole round. The

circuits were important objects to Brougham and myself, who now first went as leaders from the rank given us by Her Majesty. Brougham made a wonderful harvest at York, and I kept my ground on my little theatre (the Midland) very fairly. It may seem trifling to advert to the bodily fatigue caused by these various exertions, but I never lost sight of the profession as the principal object of my hopes. On Tuesday, travelling all night, I went from London to the Northampton assizes ; on their termination I returned to London on Wednesday or Thursday. On the Saturday I had the conduct of an important action at Guildhall, brought by Colonel De Bosset against Sir Thomas Maitland, for oppressively cashiering him at Corfu, in which I had the good fortune to obtain a verdict, with 100*l.* damages. Vizard (Solicitor for the Queen) was the defendant's attorney, and I well remember taking him to my house in Russell Square to luncheon, when, after the labor of the day, in the hottest weather, I was so dog-tired that I not only sate down to eat, but actually set off on my journey to Lincoln assizes, without either washing or changing my linen. I had flattered myself with a comfortable bed on the road, but found all engaged, and was obliged to travel all night and sleep in the carriage as I could.

“ The circuit was laborious, and concluded (for me) with my making a two hours' speech for the defendants in the silly prosecution against Major Cartwright and others for their foolish mock election of a 'legislatorial attorney' for Birmingham. The next day I was obliged to go across the country to a dinner given in honor of our election at Nottingham, where, arriving a few minutes before the appointed hour, I found that both Lord Holland and Birch declined the chair, and was under the necessity of taking it at a moment's notice. The party consisted of near 500, and the exertion attending the

office of President were great and entirely new to me. These circumstances very naturally explain the attack of jaundice which was visible and confirmed when I came to London."

On returning to London Denman hastened to pay his respects to the Queen, who had then moved to Brandenburg House, Hammersmith, which he describes as "rather pleasantly seated on the Thames, but a strange, dilapidated, half-furnished, foreign-looking mansion." He was personally extremely well received, but he found the Queen's distrust and dislike of Brougham if possible even increased. On Sunday, August 13, only four days before the commencement of the trial, in compliance with an anxious summons from Dr. Parr, he went to Brandenburg House, when the Doctor entered into an earnest discourse with him on the propriety of dismissing Brougham. "The Queen also," he says, "walking with me in the garden, complained of Brougham. 'If he had come over to me at Geneva,' she exclaimed, 'I should have been spared all this trouble : ' and Lady Ann Hamilton, he adds, 'told me that one of the very few occasions upon which the Queen was entirely overwhelmed by her feelings was the visit of the Usher of the Black Rod, announcing that the Bill of Pains and Penalties was brought in. She walked about the room in extreme agitation, repeatedly exclaiming, '*If my head is upon Temple Bar, it will be Brougham's doing.*'" It is needless to point out how pitifully unjust this was to the man who had from the first dissuaded her from coming to England, and to whose splendid exertions, after she had once taken that step, the defeat of her enemies was mainly owing.

The day of trial—Thursday, August 17—was now at hand. On that day, and on the 18th, counsel was heard against the principle of the Bill : in other words, against

its being read a second time. On the 18th Denman delivered a very powerful speech against the second reading, remarkable for the boldness of its attacks on real prosecutor, the King, and concluding with the following emphatic declaration, which made him extremely popular with the Queen's supporters out-of-doors:

"I beg to say, my Lords, that whatever may be enacted—whatever may be done by the exertions of any individual, by the perversion of truth or by the perjury of witnesses, whatever may be the consequences which may follow, and whatever she may suffer—I will for one never withdraw from her those sentiments of dutiful homage and respect which I owe to her rank, to her situation, to her superior mind, to her great and royal heart; nor, my Lords, will I ever pay to any one who may usurp Her Majesty's station that respect and duty which belong alone to her whom the laws of God and man have made the consort of his present Majesty, and the Queen of these kingdoms."

Denman, in the personal narrative, thus speaks of the effects of his speech against the second reading:

"I had the satisfaction of learning that my speech against the second reading of the bill had acted forcibly on many of the peers. The Queen entered the House on that occasion while I was speaking, and remained to the conclusion. She came afterwards and found me alone in her apartment, when she greeted me with this compliment, 'My God, what a beautiful speech!' I was reposing, much fatigued, on one of the sofas, and had thrown my wig on the other. When she entered, I expressed great distress at having taken so great a liberty with her room, and she answered me laughing, with an allusion to what I had been saying about the pream-

ble of the bill, 'Indeed, it is a most unbecoming familiarity.' "

It having been decided that the Bill should be proceeded with, the Attorney-General, Sir R. Giffard, on August 19, commenced opening the case for the Crown.

On August 21 the examination of witnesses began, and lasted till September 7, including those two great masterpieces of forensic skill—the cross-examinations of Theodore Majocchi by Brougham, and of Louise Demont by Williams.

On September 7 Copley (then Solicitor-General) summed up the case for the Crown with consummate ability, after which, on September 9, it was resolved that the Bill should stand adjourned till October 3, in order, as ministers stated, to give the Queen's advisers time to prepare their defence; as their opponents surmised, to let the unanswered and uncontradicted evidence for the Crown produce a prejudice against the Queen throughout the country.

"To enter into any details of the detestable proceeding [writes Denman in the personal narrative] would be to open an endless volume. All the world knows all about it. Our royal client was in a state of considerable agitation at first, which is the only account to be given of her strange exclamation at the apparition of Theodore Majocchi. [When this witness was introduced the Queen exclaimed, "Theodore! no, no!" and rising from her seat, abruptly quitted the House, followed by Lady Ann Hamilton.] She was copiously bled that night, and when she took her seat the following day in the House of Lords I never saw a human being so interesting. Her face was pale, her eyelids a little sunken, her eyes fixed on the ground, with no expression of alarm or consciousness, but with an appearance of decent distress at being

made the object of such revolting calumnies, and a noble disdain of her infamous accusers. We did not think it proper for her to give her attendance during the whole investigation, but advised her to be absent except when required for any particular reasons.

“In the middle of the proceedings we had a three weeks’ holiday [from September 9 to October 3, as already stated], and I went and washed away my jaundice at Cheltenham. My entrance into that town was a striking proof of the state of public feeling. My carriage having been waylaid for many hours, and my name being discovered, I know not how, long after it was dark the people took out the horses, drew the carriage near a mile, and surrounded the house with loud shouts of ‘Queen! Queen!’ with which I had been so often surfeited in Portman Street. Ill as I was I had serious thoughts of leaving the place again on the instant, but at length resolved to muster up voice and spirits for a speech at the window, and finding myself opposite to a brilliant star, I told the multitude that the Queen could no more be plucked from her throne than that beautiful star from the heavens. They were in great good-humor with me, and at my earnest solicitation left me alone, but betook themselves to breaking some of my neighbor’s windows, particularly the parson’s, who had very imprudently refused them permission to ring the bells on my arrival. One of the magistrates called to request my interference to prevent further violence, and going among the mob I prevailed upon them to disperse and spare the few of his windows that remained unbroken.

“The House of Lords resumed its sittings on October 3, and was on that day addressed by Brougham in one of the most powerful orations that ever proceeded from human lips. His arguments, his observations, his tones, his attitude, his eye, left an impression on my mind

which is scarcely ever renewed without exciting strong emotion. The peroration was sublime, 'Spare the Altar, which must stagger with the rock that rends its kindred Throne.' Erskine rushed out of the House in tears.

"The defect of the speech was a want of due care in the comments on the prosecutor's case. If he had taken pains to demonstrate the falsehood of a large part of the evidence, and contrast the proof with the opening, we might have had a fair excuse for claiming an acquittal on the failure of all the charges against us. But this would have been suspicious and difficult, after pausing three weeks on the case, and when it was known that we had sent for witnesses from so many different quarters. Of all the scandalous perversions of justice of which we had so much reason to complain, the most revolting was the prohibition to enter upon our defence the moment the case against us was closed, unless we undertook to proceed with our witnesses immediately. The Chancellor had the hardihood to assert that his asking Brougham whether he intended to call witnesses before he permitted him to begin his defence was in conformity with the practice of all courts: this is directly contrary to the truth, and I thought that Brougham ought to have refused to answer. Every counsel has a right to enter upon the defence of his client the moment the accusation is brought to an end, and to make up his mind, from observing the effect he produces on his judges, whether he will call any witnesses or not. The case against the Queen was permitted to circulate through the world and sink deep in every mind during the three weeks of adjournment, without contradiction or comment; and with willing hearts and an easy faith, the result was an impression which no negative testimony could have the least chance of removing.

"Williams followed Brougham, and it is but justice to

say of him that he was most anxious to be excused from speaking. It was unfortunate that his mode of treating the subject brought him so much into direct comparison with such a model, but it was indispensable that the evidence should be more minutely shifted than it had been, and he argued that part of the case closely, powerfully, and ingeniously.

"Our witnesses were called, and their evidence is known to the world: the tricks of our adversaries are not known. What I said in my speech of the low character of their manœuvres was literally true. Copley's cross-examinations were forced and skilful; that of Flynn restored a lost cause. The ministers (impartial judges!) could hardly restrain their joy. Lord Sidmouth said they were 20 per cent. better than they had been the day before.

"Without entering into minute particulars, I must give one sample of the conduct of the ministers, who not only set on foot the accusation and sat as judges on the accused, but had the control of all the means of obtaining witnesses or securing their absence. One John Adams was said to have been the only British seaman on board the famous *Polacca*. It was reported that he had seen the Queen and Bergami in an unequivocal situation; the '*Courier*' newspaper insinuated that she had caused him to be assassinated to prevent his appearing as a witness. This very man happened to arrive at Bristol in the King's ship to which he belonged, pending the proceedings. Alderman Wood, being informed of this, and that the ship was immediately ordered to Portsmouth, employed a friend at the latter place to take Adams' deposition; it was entirely favorable. Wood instantly wrote to his friend to send Adams to London, but before the letter arrived the man had been ordered away.

“ During a great part of the proceedings, Lord and Lady Holland had most kindly insisted on my passing the Sundays and part of the Saturday and Monday at Holland House, where I luxuriated in an admirable library, and the best company in the world ; at the same time recruiting my health in good air and delicious gardens. I generally occupied Mr. Fox’s chamber, and was as happy as a man could be.

“ While we were calling our witnesses, and I was at Holland House on Sundays and at home in the evenings, anxiously sifting the minutes of evidence, Dr. Parr was my frequent correspondent, pointing out illustrations of many parts of our case from history and classical literature. He earnestly besought me to look into Bayle, and weave into my summing-up allusions to Judith, Julia, and Octavia. The first two seemed to me inapplicable ; the third flashed upon me like lightning. In a moment I resolved to make the unhappy wife of Nero my heroine, and indeed the parallel was perfect. I was deeply smitten, too, with the honest chambermaid’s Greek, but, trembling as to the effect it might produce, I wrote back to ask Parr whether I could venture to bring it forward. He, in reply, at first suggested a method of periphrasis, but, at length, recurring to it in the postscript to a long letter, he burst out, ‘ Oh dear, Mr. Denman, I am for the word itself—don’t be squeamish.’

“ My speech was as successful with a view to my own reputation as my friends could desire. I hope, too, that it was of some use to the Queen, though the unfortunate turn that was, not quite unjustly, given to the parable of the woman taken in adultery has given me some of the bitterest moments of my life. Not that the subject was unfit to be touched, for it could not fail to have some effect on persons possessing religious feelings ; but it ought not to have formed the concluding sentence, and

might have been more guardedly introduced, and more dexterously softened off. It came into my head after ten hours' speaking,¹ at four, when the House had uniformly adjourned with the utmost punctuality, and at a moment when the feelings of that assembly were wrought up to the very highest pitch. These circumstances account in some degree for an indiscretion which nothing can fully justify."

The passage here alluded to is at the very close of Denman's address, and is thus reported in Hansard :

"He who the sword of Heaven would bear
Should be as holy as severe,

and if your lordships have been furnished with weapons and powers which scarcely, I had almost said, Omniscience possesses, for coming at the secret, I think you will feel that some duty is imposed on you of endeavoring to imitate at the same moment the justice, the beneficence, and the wisdom of that Divine authority, who, even when guilt was detected and vice revealed, said, 'If no one come forward to condemn thee, neither will I condemn thee. Go, *and sin no more.*'"

It must be admitted that this was unfortunate.

Neither can it be denied that the parallel between Octavia and Caroline of Brunswick—between the pure, innocent girl-bride of Nero, one of the saddest and most touching figures in ancient story, and the mature, bold, coarse, and immodest, even if not vicious, Queen of George IV.—though worked out with considerable ingenuity, was, to say the least of it, in very questionable taste.

The quotation, too, of the "honest chambermaid's Greek," "the scathing sarcasm which," in the eloquent words of Mr. Merivale, "clings like the shirt of Nessus

¹ On two successive days, October 24 and 25.

to the name of Tigellinus, was a temptation which it would, on all accounts, have been better to have resisted." As this quotation stands in Hansard's report of the speech, it is clear from the context that it was intended to apply, not in any way to the King himself, but to witnesses like Majocchi, and Sacchi, and Rastelli—dis-carded menials, who came forward with perjured evidence to betray their former mistress.

The King, however, suspected that it was meant for himself (nor, indeed, is it at all certain that Parr might not have so intended it), and his resentment, naturally enough, was deadly, and for many years unappeasable. Denman would have done much better not to have given way to the suggestion of the officious and over-rated old pedant.

For the moment, however, the town was delighted with the parallel between Caroline and Octavia ; the King was everywhere talked of as Nero, and Moore (then in Paris, on account of his Bermuda money difficulties), records in his diary that the dandies of the day thought it witty to speak of Carlton House as "*Nérot's Hotel*."

The speech, in spite of these occasional lapses from good taste, was in an eminent degree bold, vigorous, and manly. It is pervaded throughout by a deep sense of earnestness, a profound conviction of the truth and justice of his client's cause. The high tone of generous and vehement indignation never for a moment flags, and the comments on the evidence—minute, searching, and ingenious—are masterly in the extreme.

It contains, just before the close, a graceful and generous tribute of praise to the magnificent exertions of Brougham ; an expression of friendship and admiration which at the time was much and deservedly applauded :

" Before I conclude, I must be permitted to say that during the whole of this proceeding (though, personally,

I have every reason to thank the House for its kindness and indulgence) the highest gratification resulting to my mind has been that I have been joined with my learned friend on this great occasion. We have fought elsewhere the battles of morality, Christianity, and civilized society, throughout the world ; and, in the language of the dying warrior, I may say—

‘ In this glorious and well-foughten field
We kept together in our chivalry.’

While he has been achieving an immortal victory, an illustrious triumph, and protecting innocence and truth by the adamant shield of his prodigious eloquence, it has been my lot to discharge only a few random arrows at the defeated champions of this disgraceful cause. The House will believe me when I say that I witnessed the display of his surprising powers with no other feelings than a sincere gratification that the triumph was complete—with admiration and delight that the victory of the Queen was accomplished.”

Another passage which especially commended itself to the popular sentiment was the famous apostrophe, “*Come forth, thou slanderer,*” addressed to the Duke of Clarence, afterwards William IV., who, though his own life had been notoriously profligate, affected to be deeply shocked at the immoralities of his sister-in-law, and was known to be a most industrious circulator of all sorts of scandal against her. “Thou slanderer,” was a sobriquet which for some time clung as closely to the King’s brother as that of “Nero” to the King, though William, as it afterwards appeared, had what George wanted—the royal magnanimity to forgive. The passage is worth citing, as a fair specimen of the style of speaking which made Denman in those days one of the most popular men in England.

“ I know that rumors are abroad of the most vague, but, at the same time, of the most injurious character ; I have heard them even at the very moment we were defending Her Majesty against charges which, compared with these rumors, are clear, comprehensible, and tangible. We have heard, and hear daily, with alarm, that there are persons, and these not of the lowest condition, not confined to individuals connected with the public Press—not even excluded from this august assembly—who are industriously circulating the most odious and atrocious calumnies against Her Majesty. Can this thing be?—and yet can we live in the world in these times, and not know it to be a fact ? We know that if a jurymen on such an occasion should be found to possess, or affect to possess, any knowledge on the subject of inquiry, we should have a right to call him to the bar as a witness. ‘ Come forward,’ we might say, ‘ and let us confront you with our evidence ; let us see whether no explanation can be given of the fact you assert, and no refutation effectually applied.’ But to any man who could even be suspected of so base a practice as whispering calumnies to judges—distilling leprous venom into the ears of jurors—the Queen might well exclaim, ‘ *Come forth, thou slanderer, and let me see thy face !* If thou wouldst equal the respectability even of an Italian witness, come forth and depose in open court ! As thou art, thou art worse than an Italian assassin ! because, while I am boldly and manfully meeting my accusers, thou art planting a dagger unseen in my bosom, and converting thy poisoned stiletto into the semblance of the sword of justice !’ I would fain say, my Lords, that it is utterly impossible that this can be true ; but I cannot say it, because the fact stares me in the face. I read it even in the public papers ; and had I not known of its existence in the high places of the earth I should have held it

impossible that any one with the heart of a man, or with the honor of a peer, should so debase his soul and degrade his honor. I would charge him as a judge; and if it were possible for the Blood Royal of England I would impeach him as a judge; to descend to a course so disgraceful, I should fearlessly assert that it was far more just that such conduct should deprive him of his right of succession, than that all the facts alleged against Her Majesty, even if true to the last letter of the charge, should warrant your Lordships in passing this bill of degradation and divorce."

In reading this and similar passages the great personal advantages of the speaker must not be forgotten, especially the commanding range and power of his voice. In all that the Greeks comprised under the term of action (*ὑποκρισις*) in voice, in expression of eye, and face, in gesture and in attitude, in all the histrionic part of oratory—that part of it which is physical and perishable—Denman possessed qualifications that have very rarely been surpassed. On this occasion, it was remembered by some who were present that at the words "Come forth, thou slanderer," etc., he raised his voice to the full measure of its magnificent compass, till the old roof rang again, and a thrill of irrepressible emotion pervaded every heart in the densely crowded assembly.

The speech at the moment undoubtedly took the taste of the general public even more than the carefully prepared oratory of Brougham, though of *that* some passages now endure for all time among the masterpieces of eloquence, while *this*, more carelessly thrown off and never adequately revised, is now almost completely forgotten.

On the whole, Denman might well say of his speech that "it was as successful, with a view to his own reputation, as his friends could desire."



It is time to return to the personal narrative. It continues :

“ The Attorney-General's reply was unexpectedly good, much superior to the Solicitor's, and to all the Attorney-General had done before. It was remarkable, indeed, as almost unexampled recovery from extreme depression.

“ The debates of the Lords began on November 1, and I attended them almost incessantly. Lord Grey's speech, however, admitted to be by far the best that was delivered, I unluckily missed, having gone at that time with Brougham to Brandenburgh House to persuade the Queen to come again to the House of Lords, which she had too completely discontinued. She was seized with some strange caprice, and we were told that she could not see us, because she had had a bad night and was still asleep. We waited above an hour, but her sleep outlasted us. Brougham said, as we got into the carriage to return, that he saw her peeping at us through the window of a room adjoining her bed-chamber.

“ The question for the second reading was carried on November 6, by a majority of 28 (contents 123, non-contents 95). Then the preamble was debated for a day or two ; then, on November 10, came the question upon the third reading, which was carried by a majority of only 9 (contents 108, non-contents 99). With a throbbing heart I listened to the votes which were given by *appel-nominal*, beginning with the youngest baron. The Duke of Richmond's vote was perhaps the most gallant ; the Earl of Portsmouth's the most amusing, for the poor idiot had voted on the other side on the second reading, and was nearly prompted to do the same on the third, when Lord Kenyon, who acted as teller against the Bill from the gallery, eagerly prevented the interference.

“ The moment the numbers were known, Brougham

summoned me into the contiguous chamber, where the Queen was, to prepare an immediate petition to be heard by counsel against the Bill's passing. It was hastily drawn up, and Her Majesty, being desired to sign it, uttered those memorable words, after pausing a moment on 'Caroline'—'Regina in spite of them.' Brougham, and all her counsel were in the room, and then all left it but myself, to desire some lord to present the petition. I remained behind with Her Majesty and her chamberlain, Mr. Keppel Craven.

"At this moment I was seized with an impulse that I could not resist, and believing that the seal was finally affixed to the sentence of degradation of the House of Lords, I went up to the Queen, and requested a favor I had never enjoyed or solicited before, that of being permitted to kiss her hand. She held it out to me with great emotion and a profusion of tears.

"Some tumult was now heard in the passage, and the strange tidings were made known that Lord Liverpool had withdrawn the Bill. All the rest of our party then returned to the Queen, and in another room Lady Charlotte Lindsay, who had watched the proceedings with excessive anxiety, threw herself into my arms in a paroxysm of delight. The same feelings of enthusiastic joy were almost instantaneously awakened in every part of London. The Queen, after a short delay, ascended her state carriage, and weeping, and in silence, proceeded to Brandenburgh House."

The exultation of the country at the break-down of the prosecution was in proportion to the depth and intensity of its previous anxiety. Illuminations and public rejoicings were general over the whole face of the land. The city of London passed a vote of thanks to Brougham, Denman, and Lushington, and resolved that the freedom of the city should be presented to them in commemoration of their splendid and successful exertions.—*Arnould*.



INDEX TO VOL. II.

A.

	PAGE.
Abergavenny, Lord. In trial of Duke of Buckingham, ...	103
Abbé Salis. Confessor of Mrs. Tichborne, ...	3
Abbé Dupanloup. Bishop of Orleans, ...	5
Acland, Sir T. In trial of Queen Caroline, ...	248
Argyle, Lord of. In trial of Sidney, ...	149
Arundel, Earl of. In trial of Queen Anne, ...	113
Audley, Lord. In trial of Queen Anne, ...	113

B.

Banke, Sir John. In trial of Hampden, ...	118
Banks, Mr. In trial of Queen Caroline, ...	248
Bayley, Mr. Justice, ...	235
"Bella," loss of. The ship in which Roger Tichborne sailed from Rio for Kingston, ...	38

	PAGE.
Boleyn, Sir Thomas. Father of Queen Anne, ...	109
Bourbon Conti, French house of. From which sprang the mother of Mrs. Tichborne, ...	2
Boyle, Mr. Secretary in trial of Dr. Sacheverell, ...	169
Brandenburgh House, ...	266
Brereton. Figured in trial of Queen Anne, ...	109
Brougham, Lord. In trial of Queen Caroline, ...	230
Burgh, Lord. In trial of Queen Anne, ...	113
Burke, Mr. In trial of Hastings, ...	218

C.

Carlton House, ...	262
Caroline and Octavia, parallel between, ...	262
Cary, Mr. In trial of Sidney, ...	154
Castlereagh, Lord. In trial of Queen Caroline, ...	237
Charles, Earl Grey, ...	219
Chatillon. Tutor of Roger Charles Tichborne, ...	4
Clements, Mr. Henry. In trial of Dr. Sacheverell, ...	167
Clinton, Lord. In trial of Queen Anne, ...	113
Cobham, Lord. In trial of Queen Anne, ...	113
Cockburn, Sir Alexander. In Tichborne Trial, ...	88
Cockram, Sir John. In trial of Sidney, ...	149
Compton, Mr. In trial of Dr. Sacheverell, ...	169

	PAGE.
Coningsby, Lord. In trial of Dr. Sacheverell, ...	169
Cooke, Mr. In trial of Sidney, ...	154
Copley, Mr. In trial of Queen Caroline, ...	256
Court, John De la. A chaplain who figured in trial of Duke of Buckingham, ...	104
Cowper, Spencer. In trial of Dr. Sacheverell, ...	169
Cowper, Lord Chancellor. In trial of Dr. Sacheverell, ...	169
Cowper, Mr. In trial of Hastings, ...	220
Cranmer, Archbishop. In trial of Queen Anne, ...	112
Craven, Mr. Keppel. In trial of Queen Caroline, ...	267
Crawley, Sir Francis. In trial of Hampden, ...	119
"Crawls, The,"	8
Crooke, Sir George. In trial of John Hampden, ...	120
Cubitt. Of "Missing Friend's Office,"	43

D.

Dacres, Lord. In trial of Queen Anne, ...	113
Dallas, Mr. In trial of Hastings, ...	218
Dalrymple, Sir David. In trial of Dr. Sacheverell, ...	169
D'Aranza, M. Comte de Mondreville, ...	5
Davenport, Sir Humphrey. In trial of Hampden, ...	120
Dee, Mr. Counsel for Dr. Sacheverell, ...	169

	PAGE.
De Itchenborne. Ancient form of name, Tichborne, ...	2
Denman, Lord. In trial of Queen Caro- line, ...	230
Derby, Earl of. In trial of Queen Anne, .	113
Dodd, Mr. Counsel for Dr. Sacheverell, .	169
Dolben, Mr. In trial of Dr. Sacheverell, .	169
"Dole Day,"	9
Doughty, Edward, ...	10
Doughty, Sir Edward, ...	13
Doughty, Sir Edward. Death of, . . .	36
Doughty, Miss Kate, ...	17
Doughty, Miss. In after years Lady Radcliffe, ...	23

E.

Eldon, Lord. In trial of Queen Caro- line, ...	233
Erskine, Mr. In trial of Thomas Paine, .	213
Erskine, Mr. In trial of Queen Caro- line, ...	258
Essex, Lord of. In trial of Sidney, . .	141
Exeter, Marquis of. In trial of Queen Anne, ...	113
Eyre, Esq., Robert. In trial of Dr. Sache- verell, ...	169
Eyre, Mr. Solicitor. In trial of Dr. Sacheverell, ...	169

F.

Ferguson, Mr. In trial of Sidney, . . .	141
---	-----

	PAGE.
Finch, Sir John. In trial of Hampden, .	120
Flynn, Mr. In trial of Queen Caroline, .	259
Fox, Mr. In trial of Hastings, .	218

G.

Gardiner, ambassador in France. Figured in trial of Queen Anne, . . .	109
George IV. Accession of, . . .	229
Giffard, Sir R. In trial of Queen Caro- line, . . .	256
Grant, Sir William. In trial of Queen Caroline, . . .	235
"Green Bag Papers," . . .	238
Greenwood, Colonel Wm. Cousin by marriage to Roger Tichborne, . .	16
Grindall, Archbishop, . . .	188

H.

Hamilton, Lady Ann. In trial of Queen Caroline, . . .	237
Hampden, John. Tried in Westminster Hall, . . .	116
Harcourt, Sir Simon. Counsel for Dr. Sacheverell, . . .	169
Hastings, Warren. Trial of, . . .	215
Hawkins, Mr. In Tichborne Trial, .	88
Hawles, Sir John. In trial of Dr. Sache- verell, . . .	169
Holborne, Mr. In trial of John Hamp- den, . . .	118

	PAGE.
Henchman, Dr. Counsel for Dr. Sache-	
vercil, ...	169
Holland, Sir John. In trial of Dr. Sache-	
verrell, ...	169
Holland House, ...	260
Hopkins, Nicholas. A monk who figured	
in trial of Duke of Buckingham, ...	104
Heathfield, Lord. In trial of Warren	
Hastings, ...	216
Howard, Lord. In trial of Sidney, ...	128
Huntington, Earl of. In trial of Queen	
Anne, ...	113
Hutchinson, Lord. In trial of Queen	
Caroline, ...	237
Hutton, Sir Richard. In trial of John	
Hampden, ...	120

I.

Itchenborne, De. Ancient form of name, ...	2
--	---

J.

Jefferies, Sir George, ...	132
Jekyll, Sir Joseph. In trial of Dr. Sache-	
verrell, ...	169

K.

Kenealy, Dr. In Tichborne Trial, ...	89
Kenyon, Lord. In trial of Queen Caro-	
line, ...	266

	PAGE.
King, Sir Peter. In trial of Dr. Sacheverell, ...	169
Kingston, Sir William. In trial of Queen Anne, ...	112

L.

Law, Mr. In trial of Hastings, ...	218
Leach, Sir John. In trial of Queen Caroline, ...	228
Lechmere, Mr. In trial of Dr. Sacheverell, ...	169
Lefèvre, Alexis. Spiritual instructor of Roger Charles Tichborne, ...	4
Lindsay, Lady Charlotte. In trial of Queen Caroline, ...	267
Littleton, Sir Edward. In trial of Hampden, ...	117
Liverpool, Lord. In trial of Queen Caroline, ...	267
Lloyd, Sir Philip. In trial of Sidney, ...	153
Loughborough, Lord. In trial of Hastings, ...	221
Lovel, Sir Thomas. In trial of Duke of Buckingham, ...	106
Lush, Mr. Justice. In Tichborne Trial, ...	88
Lushington, Dr. In trial of Queen Caroline, ...	252

M.

Mellor, Mr. Justice. In Tichborne Trial, ...	88
--	----

	PAGE.
Melvin, Lord. In trial of Sidney, . . .	149
Milan Commission. Appointed to investigate irregularities, of Queen Caroline, ...	229
Maitland, Sir Thomas. In trial of Queen Caroline, ...	253
Majocchi, Theodore. In trial of Queen Caroline.	256
Maltravers, Lord. In trial of Queen Anne, ...	113
Marlborough, Duchess of. Estimates Sacheverell, ...	198
Monmouth, Duke of. In trial of Sidney, . . .	141
Monmouth, Duke of. In trial of Sidney, . .	150
Montague, Lord. In trial of Queen Anne, ...	113
Montague, Sir James. In trial of Dr. Sacheverell, ...	169
Monteagle, Lord. In trial of Queen Anne, ...	113
Mordant, Lord. In trial of Queen Anne . .	113
Mordaunt, Lieut.-Gen. In trial of Dr. Sacheverell, ...	169
Morely Lord. In trial of Queen Anne, . .	113

N.

Nelthorp, Mr. In trial of Sidney, . . .	141
Norfolk, Duke of. One of the twenty-six who tried Queen Anne, ...	113
Norfolk, Duke of. In trial of Hastings, . .	216
Norris, Henry. Figured in trial of Queen Anne, ...	109

INDEX.

277

	PAGE.
North, Lord. In trial of Hastings, . . .	218
Northumberland, Earl of. In trial of Queen Anne, ...	113

O.

Oxford, Earl of. In trial of Queen Anne, . . .	113
--	-----

P.

Paine, Thomas. Trial of, ...	211
Parker, Sir Thomas. In trial of Dr. Sache- verell, ...	169
Parr, Dr. In trial of Queen Caroline, . . .	242
Parry, Mr. Sergeant. In Tichborne trial, . .	88
Paulet, Lord William. In trial of Dr. Sacheverell, ...	169
Percival, Mr. In trial of Thomas Paine, . .	211
Phipps, Mr. Counsel for Dr. Sacheverell, . .	169
Pitt, Mr. In trial of Hastings, ...	218
Polmer, Mr. In trial of Hastings, ...	218
Portsmouth, Earl of. In trial of Queen Caroline, ...	266
Powis, Lord. In trial of Queen Anne, . . .	113
Pym, Mr. In trial of Earl of Strafford, . .	122

Q.

Queen Anne Boleyn. Tried in Westmin- ster Hall, ...	109
Queen Caroline. Trial of, ...	228

R.

	PAGE.
Richmond, Duke of. In trial of Queen Caroline, ...	266
Rochfort, Lord. Brother of Queen Anne,	109
Rumsey, Colonel. In trial of Sidney,	141
Russell, Lord. In trial of Sidney,	141
Rutland, Earl of. In trial of Queen Anne,	113

S.

Sacheverell, Dr. Henry. Trial of,	166
Sands, Lord. In trial of Queen Anne,	113
Sawyer, Sir Robert. In trial of Sidney,	132
Seymour, Mr. of Knoyle in Wiltshire. Father of Mrs. Tichborne,	2
Shaftesbury, Lord. In trial of Sidney,	141
Shepherd. In trial of Sidney,	153
Sheridan, Mr. In trial of Hastings,	219
Sheridan, Mrs.,	220
Sidmouth, Lord. In trial of Queen Caroline,	259
Sidney, Algernon. Tried in Westminster Hall,	128
Smeton, Mark. A physician who figured in trial of Queen Anne,	109
Smith, Mr. In trial of Dr. Sacheverell,	169
Somerset, Lord Fitzroy. Commander-in-Chief of the Horse Guards,	16
Somerset House,	235
Stanhope, Lieut.-Gen. In trial of Dr. Sacheverell,	169
Stanhope, Mr. In trial of Dr. Sacheverell,	169
Stanhope, Lord. In trial of Hastings,	222

	PAGE.
St. Giles-in-the-Fields, ...	129
St. John, Mr. Counsel for Hampden, . .	116
Stonyhurst. Sir Roger Tichborne sent to Roman Catholic College at	11
Strafford, Edward, Duke of Buckingham. Tried in Westminster Hall, ...	103
Strafford, Earl of Westmoreland. In trial of Duke of Buckingham, ...	106
Suffolk, Duke of. In trial of Queen Anne, .	113
Sussex. Earl of. In trial of Queen Anne, .	113

T.

Thomas, Earl of Strafford. Tried in West- minster Hall, ...	122
Thomas, Mr. In trial of Dr. Sacheverell, .	169
Thompson, Mr. In trial of Dr. Sache- verell, ...	169
Thurlow, Mr. In trial of Hastings, . . .	226
Tichborne, Alfred. Married Theresa, eleventh daughter of Lord Arundell of Wardour, ...	42
Tichborne, Dole, ...	7
Tichborne, Dowager Lady. Died 12th of March, 1868, ...	75
Tichborne, Edward, ...	9
Tichborne House, ...	29
Tichborne, Mr. and Mrs. Marriage of, 1827, ...	4
Tichborne, Mrs. Of an English family on father's side, of French on mother's, .	2
Tichborne, Mr. James, ...	4
Tichborne, Roger Charles. Birth of, 5th January, 1829, ...	4

	PAGE.
Tichborne, Sir Roger de, ...	7
Tichborne, Roger. Destined for the Army, ...	15
Tichborne, Roger. Loves his cousin, Miss Doughty, ...	19
Tichborne, Sir Henry Joseph, ...	9
Tichborne, Sir James. Died in 1862, ...	42
Tichborne. Trial, ...	1
Tierney, Mr. In trial of Queen Caroline, ...	232
Travels of Roger Tichborne in South America, ...	33
Trevor, Sir Thomas. In trial of John Hampden, ...	120

V.

Vernon, Sir George. In trial of Hamp- den, ...	119
Vizard, Mr. In trial of Queen Caroline, ...	252

W.

Walpole, Mr. In trial of Dr. Sacheverell, ...	169
Walpole, Esq., Robert. In trial of Dr. Sacheverell, ...	169
War, Lord de la. In trial of Queen Anne, ...	113
Waterton's "Wanderings,"	31
Waterton, Edward. Son of celebrated natu- ralist, ...	31
Wellington, Duke of. In trial of Queen Caroline, ...	244
Wentworth, Lord. In trial of Queen, Anne, ...	113

	PAGE.
Westmoreland, Earl of. In trial of Duke of Buckingham, ...	104
Westmoreland, Earl of. In trial of Queen Anne, ...	113
Weston. Figured in trial of Queen Anne, .	109
Weston, Sir Francis. In trial of Hamp- den, ...	118
Wilberforce, Mr. In trial of Queen Caro- line, ...	246
Wilde, Mr. In trial of Queen Caro- line, ...	252
Williams, Mr. In trial of Queen Caro- line, ...	258
Windham, Mr. In trial of Hastings, .	219
Windsor, Lord. In trial of Queen Anne, .	113
Withins, Justice. In trial of Sidney, .	132
Wolsey, Cardinal. Enemy to Buck- ingham, ...	103
Wood, Alderman. In trial of Queen Caro- line, ...	229
Worcester, Earl of. In trial of Queen Anne, ...	113
Wortley, Mr. In trial of Queen Caroline, .	248

1

2

3

4

5

6

7

8

9